

# House File 2633 - Enrolled

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1 3 AN ACT  
1 4 RELATING TO BUSINESS ASSOCIATIONS, BY PROVIDING FOR LIMITED  
1 5 LIABILITY COMPANIES AND CONVERSION INVOLVING CORPORATIONS,  
1 6 PROVIDING FEES AND PENALTIES, AND PROVIDING AN EFFECTIVE  
1 7 DATE.  
1 8  
1 9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 10  
1 11 DIVISION I  
1 12 UNIFORM ACT PROVISIONS  
1 13 ARTICLE 1  
1 14 GENERAL PROVISIONS  
1 15 Section 1. NEW SECTION. 489.101 SHORT TITLE.  
1 16 This chapter may be cited as the "Revised Uniform Limited  
1 17 Liability Company Act".  
1 18 Sec. 2. NEW SECTION. 489.102 DEFINITIONS.  
1 19 As used in this chapter:  
1 20 1. "Certificate of organization" means the certificate  
1 21 required by section 489.201. The term includes the  
1 22 certificate as amended or restated.  
1 23 2. "Contribution" means any benefit provided by a person  
1 24 to a limited liability company that is any of the following:  
1 25 a. In order to become a member upon formation of the  
1 26 company and in accordance with an agreement between or among  
1 27 the persons that have agreed to become the initial members of  
1 28 the company.  
1 29 b. In order to become a member after formation of the  
1 30 company and in accordance with an agreement between the person  
1 31 and the company.  
1 32 c. In the person's capacity as a member and in accordance  
1 33 with the operating agreement or an agreement between the  
1 34 member and the company.  
1 35 3. "Debtor in bankruptcy" means a person that is the  
2 1 subject of any of the following:  
2 2 a. An order for relief under Title 11 of the United States  
2 3 Code or a successor statute of general application.  
2 4 b. A comparable order under federal, state, or foreign law  
2 5 governing insolvency.  
2 6 4. "Deliver" or "delivery" means any method of delivery  
2 7 used in conventional commercial practice, including delivery  
2 8 in person, by mail, commercial delivery, and electronic  
2 9 transmission.  
2 10 5. "Distribution", except as otherwise provided in section  
2 11 489.405, subsection 6, means a transfer of money or other  
2 12 property from a limited liability company to another person on  
2 13 account of a transferable interest.  
2 14 6. "Domestic cooperative" means an entity organized on a  
2 15 cooperative basis under chapter 497, 498, or 499 or a  
2 16 cooperative organized under chapter 501 or 501A.  
2 17 7. "Effective", with respect to a record required or  
2 18 permitted to be delivered to the secretary of state for filing  
2 19 under this chapter, means effective under section 489.205,  
2 20 subsection 3.  
2 21 8. "Electronic transmission" means any process of  
2 22 communication not directly involving the physical transfer of  
2 23 paper that is suitable for the retention, retrieval, and  
2 24 reproduction of information by the recipient.  
2 25 9. "Foreign limited liability company" means an  
2 26 unincorporated entity formed under the law of a jurisdiction  
2 27 other than this state and denominated by that law as a limited  
2 28 liability company.  
2 29 10. "Limited liability company", except in the phrase  
2 30 "foreign limited liability company", means an entity formed  
2 31 under this chapter.  
2 32 11. "Manager" means a person that under the operating  
2 33 agreement of a manager-managed limited liability company is  
2 34 responsible, alone or in concert with others, for performing  
2 35 the management functions stated in section 489.407, subsection  
3 1 3.  
3 2 12. "Manager-managed limited liability company" means a  
3 3 limited liability company that qualifies under section

3 4 489.407, subsection 1.

3 5 13. "Member" means a person that has become a member of a  
3 6 limited liability company under section 489.401 and has not  
3 7 dissociated under section 489.602.

3 8 14. "Member=managed limited liability company" means a  
3 9 limited liability company that is not a manager=managed  
3 10 limited liability company.

3 11 15. "Operating agreement" means the agreement, whether or  
3 12 not referred to as an operating agreement and whether oral, in  
3 13 a record, implied, or in any combination thereof, of all the  
3 14 members of a limited liability company, including a sole  
3 15 member, concerning the matters described in section 489.110,  
3 16 subsection 1. The term includes the agreement as amended or  
3 17 restated.

3 18 16. "Organizer" means a person that acts under section  
3 19 489.201 to form a limited liability company.

3 20 17. "Person" means an individual, corporation, business  
3 21 trust, estate, trust, partnership, limited liability company,  
3 22 association, joint venture, public corporation, government or  
3 23 governmental subdivision, agency, or instrumentality, or any  
3 24 other legal or commercial entity.

3 25 18. "Principal office" means the principal executive  
3 26 office of a limited liability company or foreign limited  
3 27 liability company, whether or not the office is located in  
3 28 this state.

3 29 19. "Record" means information that is inscribed on a  
3 30 tangible medium or that is stored in an electronic or other  
3 31 medium and is retrievable in perceivable form.

3 32 20. "Registered office" means any of the following:  
3 33 a. The office that a limited liability company is required  
3 34 to designate and maintain under section 489.113.  
3 35 b. The principal office of a foreign limited liability  
4 1 company.

4 2 21. "Sign" means, with the present intent to authenticate  
4 3 or adopt a record to do any of the following:  
4 4 a. Execute or adopt a tangible symbol.  
4 5 b. Attach to or logically associate with the record an  
4 6 electronic symbol, sound, or process.

4 7 22. "State" means a state of the United States, the  
4 8 District of Columbia, Puerto Rico, the United States Virgin  
4 9 Islands, or any territory or insular possession subject to the  
4 10 jurisdiction of the United States.

4 11 23. "Transfer" includes an assignment, conveyance, deed,  
4 12 bill of sale, lease, mortgage, security interest, encumbrance,  
4 13 gift, or transfer by operation of law.

4 14 24. "Transferable interest" means the right, as originally  
4 15 associated with a person's capacity as a member, to receive  
4 16 distributions from a limited liability company in accordance  
4 17 with the operating agreement, whether or not the person  
4 18 remains a member or continues to own any part of the right.

4 19 25. "Transferee" means a person to which all or part of a  
4 20 transferable interest has been transferred, whether or not the  
4 21 transferor is a member.

4 22 Sec. 3. NEW SECTION. 489.103 KNOWLEDGE == NOTICE.

4 23 1. A person knows a fact when the person has or is any of  
4 24 the following:  
4 25 a. Has actual knowledge of it.  
4 26 b. Is deemed to know it under subsection 4, paragraph "a",  
4 27 or law other than this chapter.

4 28 2. A person has notice of a fact when the person has or is  
4 29 any of the following:  
4 30 a. Has reason to know the fact from all of the facts known  
4 31 to the person at the time in question.  
4 32 b. Is deemed to have notice of the fact under subsection  
4 33 4, paragraph "b".

4 34 3. A person notifies another of a fact by taking steps  
4 35 reasonably required to inform the other person in ordinary  
5 1 course, whether or not the other person knows the fact.

5 2 4. A person that is not a member is deemed both of the  
5 3 following:  
5 4 a. To know of a limitation on authority to transfer real  
5 5 property as provided in section 489.302, subsection 7.  
5 6 b. To have notice of all of the following regarding a  
5 7 limited liability company's:  
5 8 (1) Dissolution, ninety days after a statement of  
5 9 dissolution under section 489.702, subsection 2, paragraph  
5 10 "b", subparagraph (1), becomes effective.  
5 11 (2) Termination, ninety days after a statement of  
5 12 termination under section 489.702, subsection 2, paragraph  
5 13 "b", subparagraph (6), becomes effective.  
5 14 (3) Merger, conversion, or domestication, ninety days

5 15 after articles of merger, conversion, or domestication under  
5 16 article 10 become effective.

5 17 Sec. 4. NEW SECTION. 489.104 NATURE, PURPOSE, AND  
5 18 DURATION OF LIMITED LIABILITY COMPANY.

5 19 1. A limited liability company is an entity distinct from  
5 20 its members.

5 21 2. A limited liability company may have any lawful  
5 22 purpose, regardless of whether for profit.

5 23 3. A limited liability company has perpetual duration.

5 24 Sec. 5. NEW SECTION. 489.105 POWERS.

5 25 1. Except as otherwise provided in subsection 2, a limited  
5 26 liability company has the capacity to sue and be sued in its  
5 27 own name and the power to do all things necessary or  
5 28 convenient to carry on its activities.

5 29 2. Until a limited liability company has or has had at  
5 30 least one member, the company lacks the capacity to do any act  
5 31 or carry on any activity except all of the following:

5 32 a. Delivering to the secretary of state for filing a  
5 33 statement of change under section 489.114, an amendment to the  
5 34 certificate under section 489.202, a statement of correction  
5 35 under section 489.206, a biennial report under section  
6 1 489.209, or a statement of termination under section 489.702,  
6 2 subsection 2, paragraph "b", subparagraph (6).

6 3 b. Admitting a member under section 489.401.

6 4 c. Dissolving under section 489.701.

6 5 3. A limited liability company that has or has had at  
6 6 least one member may ratify an act or activity that occurred  
6 7 when the company lacked capacity under subsection 2.

6 8 Sec. 6. NEW SECTION. 489.106 GOVERNING LAW.

6 9 The law of this state governs all of the following:

6 10 1. The internal affairs of a limited liability company.

6 11 2. The liability of a member as member and a manager as  
6 12 manager for the debts, obligations, or other liabilities of a  
6 13 limited liability company.

6 14 Sec. 7. NEW SECTION. 489.107 SUPPLEMENTAL PRINCIPLES OF  
6 15 LAW.

6 16 Unless displaced by particular provisions of this chapter,  
6 17 the principles of law and equity supplement this chapter.

6 18 Sec. 8. NEW SECTION. 489.108 NAME.

6 19 1. The name of a limited liability company must contain  
6 20 the words "limited liability company" or "limited company" or  
6 21 the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited"  
6 22 may be abbreviated as "Ltd.", and "company" may be abbreviated  
6 23 as "Co."

6 24 2. Unless authorized by subsection 3, the name of a  
6 25 limited liability company must be distinguishable in the  
6 26 records of the secretary of state from all of the following:

6 27 a. The name of each person that is not an individual and  
6 28 that is incorporated, organized, or authorized to transact  
6 29 business in this state.

6 30 b. Each name reserved under section 489.109.

6 31 3. A limited liability company may apply to the secretary  
6 32 of state for authorization to use a name that does not comply  
6 33 with subsection 2. The secretary of state shall authorize use  
6 34 of the name applied for if, as to each of the following  
6 35 noncomplying names:

7 1 a. The present user, registrant, or owner of the  
7 2 noncomplying name consents in a signed record to the use and  
7 3 submits an undertaking in a form satisfactory to the secretary  
7 4 of state to change the noncomplying name to a name that  
7 5 complies with subsection 2 and is distinguishable in the  
7 6 records of the secretary of state from the name applied for.

7 7 b. The applicant delivers to the secretary of state a  
7 8 certified copy of the final judgment of a court establishing  
7 9 the applicant's right to use in this state the name applied  
7 10 for.

7 11 4. A limited liability company may use the name, including  
7 12 the fictitious name, of another entity that is used in this  
7 13 state if the other entity is formed under the law of this  
7 14 state or is authorized to transact business in this state and  
7 15 the proposed user limited liability company meets any of the  
7 16 following conditions:

7 17 a. Has merged with the other entity.

7 18 b. Has been formed by reorganization of the other entity.

7 19 c. Has acquired all or substantially all of the assets,  
7 20 including the name, of the other entity.

7 21 5. This article does not control the use of fictitious  
7 22 names. However, if a limited liability company uses a  
7 23 fictitious name in this state, it shall deliver to the  
7 24 secretary of state for filing a certified copy of the  
7 25 resolution of its members if it is member=managed or its

7 26 managers if it is manager=managed, adopting the fictitious  
7 27 name.

7 28 6. Subject to section 489.805, this section applies to a  
7 29 foreign limited liability company transacting business in this  
7 30 state which has a certificate of authority to transact  
7 31 business in this state or which has applied for a certificate  
7 32 of authority.

7 33 Sec. 9. NEW SECTION. 489.109 RESERVATION OF NAME.

7 34 1. A person may reserve the exclusive use of the name of a  
7 35 limited liability company, including a fictitious or assumed  
8 1 name for a foreign limited liability company whose name is not  
8 2 available, by delivering an application to the secretary of  
8 3 state for filing. The application must state the name and  
8 4 address of the applicant and the name proposed to be reserved.  
8 5 If the secretary of state finds that the name applied for is  
8 6 available, it must be reserved for the applicant's exclusive  
8 7 use for a one=hundred=twenty=day period.

8 8 2. The owner of a name reserved for a limited liability  
8 9 company may transfer the reservation to another person by  
8 10 delivering to the secretary of state for filing a signed  
8 11 notice of the transfer which states the name and address of  
8 12 the transferee.

8 13 Sec. 10. NEW SECTION. 489.110 OPERATING AGREEMENT ==  
8 14 SCOPE, FUNCTION, AND LIMITATIONS.

8 15 1. Except as otherwise provided in subsections 2 and 3,  
8 16 the operating agreement governs all of the following:

8 17 a. Relations among the members as members and between the  
8 18 members and the limited liability company.

8 19 b. The rights and duties under this chapter of a person in  
8 20 the capacity of manager.

8 21 c. The activities of the company and the conduct of those  
8 22 activities.

8 23 d. The means and conditions for amending the operating  
8 24 agreement.

8 25 2. To the extent the operating agreement does not  
8 26 otherwise provide for a matter described in subsection 1, this  
8 27 chapter governs the matter.

8 28 3. An operating agreement shall not do any of the  
8 29 following:

8 30 a. Vary a limited liability company's capacity under  
8 31 section 489.105 to sue and be sued in its own name.

8 32 b. Vary the law applicable under section 489.106.

8 33 c. Vary the power of the court under section 489.204.

8 34 d. Subject to subsections 4 through 7, eliminate the duty  
8 35 of loyalty, the duty of care, or any other fiduciary duty.

9 1 e. Subject to subsections 4 through 7, eliminate the  
9 2 contractual obligation of good faith and fair dealing under  
9 3 section 489.409, subsection 4.

9 4 f. Unreasonably restrict the duties and rights stated in  
9 5 section 489.410.

9 6 g. Vary the power of a court to decree dissolution in the  
9 7 circumstances specified in section 489.701, subsection 1,  
9 8 paragraphs "d" and "e".

9 9 h. Vary the requirement to wind up a limited liability  
9 10 company's business as specified in section 489.702, subsection  
9 11 1, and subsection 2, paragraph "a".

9 12 i. Unreasonably restrict the right of a member to maintain  
9 13 an action under article 9.

9 14 j. Restrict the right to approve a merger, conversion, or  
9 15 domestication under section 489.1014 to a member that will  
9 16 have personal liability with respect to a surviving,  
9 17 converted, or domesticated organization.

9 18 k. Except as otherwise provided in section 489.112,  
9 19 subsection 2, restrict the rights under this chapter of a  
9 20 person other than a member or manager.

9 21 4. If not manifestly unreasonable, the operating agreement  
9 22 may do any of the following:

9 23 a. Restrict or eliminate the duty to do any of the  
9 24 following:

9 25 (1) As required in section 489.409, subsection 2,  
9 26 paragraph "a", and subsection 8, to account to the limited  
9 27 liability company and to hold as trustee for it any property,  
9 28 profit, or benefit derived by the member in the conduct or  
9 29 winding up of the company's business, from a use by the member  
9 30 of the company's property, or from the appropriation of a  
9 31 limited liability company opportunity.

9 32 (2) As required in section 489.409, subsection 2,  
9 33 paragraph "b", and subsection 8, to refrain from dealing with  
9 34 the company in the conduct or winding up of the company's  
9 35 business as or on behalf of a party having an interest adverse  
10 1 to the company.

10 2 (3) As required by section 489.409, subsection 2,  
10 3 paragraph "c", and subsection 8, to refrain from competing  
10 4 with the company in the conduct of the company's business  
10 5 before the dissolution of the company.

10 6 b. Identify specific types or categories of activities  
10 7 that do not violate the duty of loyalty.

10 8 c. Alter the duty of care, except to authorize intentional  
10 9 misconduct or knowing violation of law.

10 10 d. Alter any other fiduciary duty, including eliminating  
10 11 particular aspects of that duty.

10 12 e. Prescribe the standards by which to measure the  
10 13 performance of the contractual obligation of good faith and  
10 14 fair dealing under section 489.409, subsection 4.

10 15 5. The operating agreement may specify the method by which  
10 16 a specific act or transaction that would otherwise violate the  
10 17 duty of loyalty may be authorized or ratified by one or more  
10 18 disinterested and independent persons after full disclosure of  
10 19 all material facts.

10 20 6. To the extent the operating agreement of a  
10 21 member-managed limited liability company expressly relieves a  
10 22 member of a responsibility that the member would otherwise  
10 23 have under this chapter and imposes the responsibility on one  
10 24 or more other members, the operating agreement may, to the  
10 25 benefit of the member that the operating agreement relieves of  
10 26 the responsibility, also eliminate or limit any fiduciary duty  
10 27 that would have pertained to the responsibility.

10 28 7. The operating agreement may alter or eliminate the  
10 29 indemnification for a member or manager provided by section  
10 30 489.408, subsection 1, and may eliminate or limit a member's  
10 31 or manager's liability to the limited liability company and  
10 32 members for money damages, except for any of the following:

10 33 a. A breach of the duty of loyalty.

10 34 b. A financial benefit received by the member or manager  
10 35 to which the member or manager is not entitled.

11 1 c. A breach of a duty under section 489.406.

11 2 d. Intentional infliction of harm on the company or a  
11 3 member.

11 4 e. An intentional violation of criminal law.

11 5 8. The court shall decide any claim under subsection 4  
11 6 that a term of an operating agreement is manifestly  
11 7 unreasonable. All of the following apply:

11 8 a. The court shall make its determination as of the time  
11 9 the challenged term became part of the operating agreement and  
11 10 by considering only circumstances existing at that time.

11 11 b. The court may invalidate the term only if, in light of  
11 12 the purposes and activities of the limited liability company,  
11 13 it is readily apparent that any of the following applies:

11 14 (1) The objective of the term is unreasonable.

11 15 (2) The term is an unreasonable means to achieve the  
11 16 provision's objective.

11 17 Sec. 11. NEW SECTION. 489.111 OPERATING AGREEMENT ==  
11 18 EFFECT ON LIMITED LIABILITY COMPANY AND PERSONS BECOMING  
11 19 MEMBERS == PREFORMATION AGREEMENT.

11 20 1. A limited liability company is bound by and may enforce  
11 21 the operating agreement, whether or not the company has itself  
11 22 manifested assent to the operating agreement.

11 23 2. A person that becomes a member of a limited liability  
11 24 company is deemed to assent to the operating agreement.

11 25 3. Two or more persons intending to become the initial  
11 26 members of a limited liability company may make an agreement  
11 27 providing that upon the formation of the company the agreement  
11 28 will become the operating agreement. One person intending to  
11 29 become the initial member of a limited liability company may  
11 30 assent to terms providing that upon the formation of the  
11 31 company the terms will become the operating agreement.

11 32 4. An operating agreement in a signed record that excludes  
11 33 modification or rescission except by a signed record cannot be  
11 34 otherwise modified or rescinded.

11 35 Sec. 12. NEW SECTION. 489.112 OPERATING AGREEMENT ==  
12 1 EFFECT ON THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE  
12 2 ON BEHALF OF LIMITED LIABILITY COMPANY.

12 3 1. An operating agreement may specify that its amendment  
12 4 requires the approval of a person that is not a party to the  
12 5 operating agreement or the satisfaction of a condition. An  
12 6 amendment is ineffective if its adoption does not include the  
12 7 required approval or satisfy the specified condition.

12 8 2. The obligations of a limited liability company and its  
12 9 members to a person in the person's capacity as a transferee  
12 10 or dissociated member are governed by the operating agreement.  
12 11 Subject only to any court order issued under section 489.503,  
12 12 subsection 2, paragraph "b", to effectuate a charging order,

12 13 an amendment to the operating agreement made after a person  
12 14 becomes a transferee or dissociated member is effective with  
12 15 regard to any debt, obligation, or other liability of the  
12 16 limited liability company or its members to the person in the  
12 17 person's capacity as a transferee or dissociated member.  
12 18 3. If a record that has been delivered by a limited  
12 19 liability company to the secretary of state for filing and has  
12 20 become effective under this chapter contains a provision that  
12 21 would be ineffective under section 489.110, subsection 3, if  
12 22 contained in the operating agreement, the provision is  
12 23 likewise ineffective in the record.  
12 24 4. Subject to subsection 3, if a record that has been  
12 25 delivered by a limited liability company to the secretary of  
12 26 state for filing and has become effective under this chapter  
12 27 conflicts with a provision of the operating agreement, the  
12 28 following rules apply:  
12 29 a. The operating agreement prevails as to members,  
12 30 dissociated members, transferees, and managers.  
12 31 b. The record prevails as to other persons to the extent  
12 32 they reasonably rely on the record.  
12 33 Sec. 13. NEW SECTION. 489.113 REGISTERED OFFICE AND  
12 34 REGISTERED AGENT FOR SERVICE OF PROCESS.  
12 35 1. A limited liability company shall designate and  
13 1 continuously maintain in this state all of the following:  
13 2 a. A registered office, which need not be a place of its  
13 3 activity in this state.  
13 4 b. A registered agent for service of process.  
13 5 2. A foreign limited liability company that has a  
13 6 certificate of authority under section 489.802 shall designate  
13 7 and continuously maintain in this state a registered agent for  
13 8 service of process.  
13 9 3. A registered agent for service of process of a limited  
13 10 liability company or foreign limited liability company must be  
13 11 an individual who is a resident of this state or other person  
13 12 with authority to transact business in this state.  
13 13 Sec. 14. NEW SECTION. 489.114 CHANGE OF REGISTERED  
13 14 OFFICE OR REGISTERED AGENT FOR SERVICE OF PROCESS.  
13 15 1. A limited liability company or foreign limited  
13 16 liability company may change its registered office, its  
13 17 registered agent for service of process, or the address of its  
13 18 registered agent for service of process by delivering to the  
13 19 secretary of state for filing a statement of change containing  
13 20 all of the following:  
13 21 a. The name of the company.  
13 22 b. The street and mailing addresses of its current  
13 23 registered office.  
13 24 c. If the current registered office is to be changed, the  
13 25 street and mailing addresses of the new registered office.  
13 26 d. The name and street and mailing addresses of its  
13 27 current registered agent for service of process.  
13 28 e. If the current registered agent for service of process  
13 29 or an address of the registered agent is to be changed, the  
13 30 new information.  
13 31 2. Subject to section 489.205, subsection 3, a statement  
13 32 of change is effective when filed by the secretary of state.  
13 33 Sec. 15. NEW SECTION. 489.115 RESIGNATION OF REGISTERED  
13 34 AGENT FOR SERVICE OF PROCESS.  
13 35 1. To resign as a registered agent for service of process  
14 1 of a limited liability company or foreign limited liability  
14 2 company, the registered agent must deliver to the secretary of  
14 3 state for filing a statement of resignation containing the  
14 4 company name and stating that the registered agent is  
14 5 resigning.  
14 6 2. The secretary of state shall file a statement of  
14 7 resignation delivered under subsection 1 and mail or otherwise  
14 8 provide or deliver a copy to the registered office of the  
14 9 limited liability company or foreign limited liability company  
14 10 and another copy to the principal office of the company if the  
14 11 mailing address of the principal office appears in the records  
14 12 of the secretary of state and is different from the mailing  
14 13 address of the registered office.  
14 14 3. An agency for service of process terminates on the  
14 15 earlier of the following:  
14 16 a. The thirty-first day after the secretary of state files  
14 17 the statement of resignation.  
14 18 b. When a record designating a new registered agent for  
14 19 service of process is delivered to the secretary of state for  
14 20 filing on behalf of the limited liability company and becomes  
14 21 effective.  
14 22 Sec. 16. NEW SECTION. 489.116 SERVICE OF PROCESS.  
14 23 1. A registered agent for service of process appointed by

14 24 a limited liability company or foreign limited liability  
14 25 company is an agent of the company for service of any process,  
14 26 notice, or demand required or permitted by law to be served on  
14 27 the company.

14 28 2. If a limited liability company has no registered agent,  
14 29 or the agent cannot with reasonable diligence be served, the  
14 30 limited liability company may be served by registered or  
14 31 certified mail, return receipt requested, addressed to the  
14 32 limited liability company at its principal office.

14 33 3. Service is effected under subsection 2 at the earliest  
14 34 of any of the following:

14 35 a. The date the limited liability company or foreign  
15 1 limited liability company receives the process, notice, or  
15 2 demand.

15 3 b. The date shown on the return receipt, if signed on  
15 4 behalf of the company.

15 5 c. Five days after the process, notice, or demand is  
15 6 deposited with the United States postal service, if correctly  
15 7 addressed and with sufficient postage.

15 8 4. This section does not affect the right to serve  
15 9 process, notice, or demand in any other manner provided by  
15 10 law.

15 11 Sec. 17. NEW SECTION. 489.117 FEES.

15 12 1. The secretary of state shall collect the following fees  
15 13 when documents described in this subsection are delivered to  
15 14 the secretary's office for filing:

15 15 a. Certificate of organization ..... \$ 50  
15 16 b. Application for use of indistinguishable name ..... \$ 10  
15 17 c. Application for reserved name ..... \$ 10  
15 18 d. Notice of transfer of reserved name ..... \$ 10  
15 19 e. Application for registered name per month or  
15 20 part thereof ..... No fee  
15 21 f. Application for renewal of registered name ..... No fee  
15 22 g. Statement of change of registered agent or  
15 23 registered office or both ..... No fee  
15 24 h. Registered agent's statement of change of  
15 25 registered office for each affected limited  
15 26 liability company ..... No fee  
15 27 i. Registered agent's statement of resignation ..... No fee  
15 28 j. Amendment to certificate of organization ..... \$ 50  
15 29 k. Restatement of certificate of organization  
15 30 with amendment of certificate ..... \$ 50  
15 31 l. Articles of merger ..... \$ 50  
15 32 m. Statement of dissolution ..... \$ 5  
15 33 n. Declaration of administrative dissolution ..... No fee  
15 34 o. Application for reinstatement following  
15 35 administrative dissolution ..... \$ 5  
16 1 p. Certificate of reinstatement ..... No fee  
16 2 q. Application for certificate of authority ..... \$100  
16 3 r. Application for amended certificate of  
16 4 authority ..... \$100  
16 5 s. Statement of cancellation ..... \$ 10  
16 6 t. Certificate of revocation of authority  
16 7 to transact business ..... No fee  
16 8 u. Statement of correction ..... \$ 5  
16 9 v. Application for certificate of existence  
16 10 or authorization ..... \$ 5  
16 11 w. Any other document required or permitted  
16 12 to be filed by this chapter ..... \$ 5

16 13 2. The secretary of state shall collect a fee of five  
16 14 dollars each time process is served on the secretary under  
16 15 this chapter. The party to a proceeding causing service of  
16 16 process is entitled to recover this fee as costs if the party  
16 17 prevails in the proceeding.

16 18 3. The secretary of state shall collect the following fees  
16 19 for copying and certifying the copy of any filed document  
16 20 relating to a domestic or foreign limited liability company:

16 21 a. One dollar a page for copying.  
16 22 b. Five dollars for the certificate.

16 23 ARTICLE 2  
16 24 FORMATION == CERTIFICATE OF ORGANIZATION  
16 25 AND OTHER FILINGS

16 26 Sec. 18. NEW SECTION. 489.201 FORMATION OF LIMITED  
16 27 LIABILITY COMPANY == CERTIFICATE OF ORGANIZATION.

16 28 1. One or more persons may act as organizers to form a  
16 29 limited liability company by signing and delivering to the  
16 30 secretary of state for filing a certificate of organization.

16 31 2. A certificate of organization must state all of the  
16 32 following:

16 33 a. The name of the limited liability company, which must  
16 34 comply with section 489.108.

16 35 b. The street and mailing addresses of the initial  
17 1 registered office and the name and street and mailing  
17 2 addresses of the initial registered agent for service of  
17 3 process of the company.  
17 4 3. Subject to section 489.112, subsection 3, a certificate  
17 5 of organization may also contain statements as to matters  
17 6 other than those required by subsection 2. However, a  
17 7 statement in a certificate of organization is not effective as  
17 8 a statement of authority.

17 9 4. A limited liability company is formed when the  
17 10 secretary of state has filed the certificate of organization,  
17 11 unless the certificate states a delayed effective date  
17 12 pursuant to section 489.205, subsection 3. If the certificate  
17 13 states a delayed effective date, a limited liability company  
17 14 is not formed if, before the certificate takes effect, a  
17 15 statement of cancellation is signed and delivered to the  
17 16 secretary of state for filing and the secretary of state files  
17 17 the certificate.

17 18 5. Subject to any delayed effective date and except in a  
17 19 proceeding by this state to dissolve a limited liability  
17 20 company, the filing of the certificate of organization by the  
17 21 secretary of state is conclusive proof that the organizer  
17 22 satisfied all conditions to the formation of a limited  
17 23 liability company.

17 24 Sec. 19. NEW SECTION. 489.202 AMENDMENT OR RESTATEMENT  
17 25 OF CERTIFICATE OF ORGANIZATION.

17 26 1. A certificate of organization may be amended or  
17 27 restated at any time.

17 28 2. To amend its certificate of organization, a limited  
17 29 liability company must deliver to the secretary of state for  
17 30 filing an amendment stating all of the following:

17 31 a. The name of the company.

17 32 b. The date of filing of its certificate of organization.

17 33 c. The changes the amendment makes to the certificate as  
17 34 most recently amended or restated.

17 35 3. To restate its certificate of organization, a limited  
18 1 liability company must deliver to the secretary of state for  
18 2 filing a restatement, designated as such in its heading,  
18 3 stating all of the following:

18 4 a. In the heading or an introductory paragraph, the  
18 5 company's present name and the date of the filing of the  
18 6 company's initial certificate of organization.

18 7 b. If the company's name has been changed at any time  
18 8 since the company's formation, each of the company's former  
18 9 names.

18 10 c. The changes the restatement makes to the certificate as  
18 11 most recently amended or restated.

18 12 4. Subject to section 489.112, subsection 3, and section  
18 13 489.205, subsection 3, an amendment to or restatement of a  
18 14 certificate of organization is effective when filed by the  
18 15 secretary of state.

18 16 5. If a member of a member=managed limited liability  
18 17 company, or a manager of a manager=managed limited liability  
18 18 company, knows that any information in a filed certificate of  
18 19 organization was inaccurate when the certificate was filed or  
18 20 has become inaccurate owing to changed circumstances, the  
18 21 member or manager shall promptly do any of the following:

18 22 a. Cause the certificate to be amended.

18 23 b. If appropriate, deliver to the secretary of state for  
18 24 filing a statement of change under section 489.114 or a  
18 25 statement of correction under section 489.206.

18 26 Sec. 20. NEW SECTION. 489.203 SIGNING OF RECORDS TO BE  
18 27 DELIVERED FOR FILING TO SECRETARY OF STATE.

18 28 1. A record delivered to the secretary of state for filing  
18 29 pursuant to this chapter must be signed as follows:

18 30 a. Except as otherwise provided in paragraphs "b" and "c",  
18 31 a record signed on behalf of a limited liability company must  
18 32 be signed by a person authorized by the company.

18 33 b. A limited liability company's initial certificate of  
18 34 organization must be signed by at least one person acting as  
18 35 an organizer.

19 1 c. A record filed on behalf of a limited liability company  
19 2 that does not have or has not had at least one member must be  
19 3 signed by an organizer.

19 4 d. A record filed on behalf of a dissolved limited  
19 5 liability company that has no members must be signed by the  
19 6 person winding up the company's activities under section  
19 7 489.702, subsection 3, or a person appointed under section  
19 8 489.702, subsection 4, to wind up those activities.

19 9 e. A statement of cancellation under section 489.201,  
19 10 subsection 4, must be signed by each organizer that signed the



19 11 initial certificate of organization, but a personal  
19 12 representative of a deceased or incompetent organizer may sign  
19 13 in the place of the decedent or incompetent.  
19 14 f. A statement of denial by a person under section 489.303  
19 15 must be signed by that person.  
19 16 g. Any other record must be signed by the person on whose  
19 17 behalf the record is delivered to the secretary of state.  
19 18 2. Any record filed under this chapter may be signed by an  
19 19 agent.  
19 20 Sec. 21. NEW SECTION. 489.204 SIGNING AND FILING  
19 21 PURSUANT TO JUDICIAL ORDER.  
19 22 1. If a person required by this chapter to sign a record  
19 23 or deliver a record to the secretary of state for filing under  
19 24 this chapter does not do so, any other person that is  
19 25 aggrieved may petition the district court to order one or more  
19 26 of the following:  
19 27 a. The person to sign the record.  
19 28 b. The person to deliver the record to the secretary of  
19 29 state for filing.  
19 30 c. The secretary of state to file the record unsigned.  
19 31 2. If a petitioner under subsection 1 is not the limited  
19 32 liability company or foreign limited liability company to  
19 33 which the record pertains, the petitioner shall make the  
19 34 company a party to the action.  
19 35 3. If a district court orders an unsigned record to be  
20 1 delivered to the secretary of state, the secretary of state  
20 2 shall file the record and the court order upon receipt.  
20 3 Sec. 22. NEW SECTION. 489.205 DELIVERY TO AND FILING OF  
20 4 RECORDS BY SECRETARY OF STATE == EFFECTIVE TIME AND DATE.  
20 5 1. A record authorized or required to be delivered to the  
20 6 secretary of state for filing under this chapter must be  
20 7 captioned to describe the record's purpose, be in a medium  
20 8 permitted by the secretary of state, and be delivered to the  
20 9 secretary of state. If the filing fees have been paid, unless  
20 10 the secretary of state determines that a record does not  
20 11 comply with the filing requirements of this chapter, the  
20 12 secretary of state shall file the record and any of the  
20 13 following applies:  
20 14 a. For a statement of denial under section 489.303, send a  
20 15 copy of the filed statement and a receipt for the fees to the  
20 16 person on whose behalf the statement was delivered for filing  
20 17 and to the limited liability company.  
20 18 b. For all other records, send a copy of the filed record  
20 19 and a receipt for the fees to the person on whose behalf the  
20 20 record was filed.  
20 21 2. Upon request and payment of the requisite fee, the  
20 22 secretary of state shall send to the requester a certified  
20 23 copy of a requested record.  
20 24 3. Except as otherwise provided in sections 489.115 and  
20 25 489.206, and except for a certificate of organization that  
20 26 contains a statement as provided in section 489.201,  
20 27 subsection 4, a record delivered to the secretary of state for  
20 28 filing under this chapter may specify an effective time and a  
20 29 delayed effective date. Subject to section 489.115, section  
20 30 489.201, subsection 4, and section 489.206, a record filed by  
20 31 the secretary of state is effective as follows:  
20 32 a. If the record does not specify either an effective time  
20 33 or a delayed effective date, on the date and at the time the  
20 34 record is filed as evidenced by the secretary of state's  
20 35 endorsement of the date and time on the record.  
21 1 b. If the record specifies an effective time but not a  
21 2 delayed effective date, on the date the record is filed at the  
21 3 time specified in the record.  
21 4 c. If the record specifies a delayed effective date but  
21 5 not an effective time, at 12:01 a.m. on the earlier of any of  
21 6 the following:  
21 7 (1) The specified date.  
21 8 (2) The ninetieth day after the record is filed.  
21 9 d. If the record specifies an effective time and a delayed  
21 10 effective date, at the specified time on the earlier of any of  
21 11 the following:  
21 12 (1) The specified date.  
21 13 (2) The ninetieth day after the record is filed.  
21 14 e. A delayed effective date for a record shall not be  
21 15 later than the ninetieth day after the date on which it is  
21 16 filed.  
21 17 Sec. 23. NEW SECTION. 489.206 CORRECTING FILED RECORD.  
21 18 1. A limited liability company or foreign limited  
21 19 liability company may deliver to the secretary of state for  
21 20 filing a statement of correction to correct a record  
21 21 previously delivered by the company to the secretary of state

21 22 and filed by the secretary of state, if at the time of filing  
21 23 the record contained inaccurate information or was defectively  
21 24 signed.

21 25 2. A statement of correction under subsection 1 shall not  
21 26 have a delayed effective date and must do all of the  
21 27 following:

21 28 a. Describe the record to be corrected, including its  
21 29 filing date, or attach a copy of the record as filed.

21 30 b. Specify the inaccurate information and the reason it is  
21 31 inaccurate or the manner in which the signing was defective.

21 32 c. Correct the defective signature or inaccurate  
21 33 information.

21 34 3. When filed by the secretary of state, a statement of  
21 35 correction under subsection 1 is effective retroactively as of  
22 1 the effective date of the record the statement corrects, but  
22 2 the statement is effective when filed as to all of the  
22 3 following:

22 4 a. For the purposes of section 489.103, subsection 4.

22 5 b. As to persons that previously relied on the uncorrected  
22 6 record and would be adversely affected by the retroactive  
22 7 effect.

22 8 Sec. 24. NEW SECTION. 489.207 PENALTY FOR SIGNING FALSE  
22 9 RECORD.

22 10 1. A person commits an offense if that person signs a  
22 11 record the person knows is false in any material respect with  
22 12 intent that the record be delivered to the secretary of state  
22 13 for filing.

22 14 2. An offense under this section is a serious misdemeanor  
22 15 punishable by a fine not to exceed one thousand dollars.

22 16 Sec. 25. NEW SECTION. 489.208 CERTIFICATE OF EXISTENCE  
22 17 OR AUTHORIZATION.

22 18 1. The secretary of state, upon request and payment of the  
22 19 requisite fee, shall furnish to any person a certificate of  
22 20 existence for a limited liability company if the records filed  
22 21 in the office of the secretary of state show that the company  
22 22 has been formed under section 489.201 and the secretary of  
22 23 state has not filed a statement of termination pertaining to  
22 24 the company. A certificate of existence must state all of the  
22 25 following:

22 26 a. The company's name.

22 27 b. That the company was duly formed under the laws of this  
22 28 state and the date of formation.

22 29 c. Whether all fees, taxes, and penalties due under this  
22 30 chapter or other law to the secretary of state have been paid.

22 31 d. Whether the company's most recent biennial report  
22 32 required by section 489.209 has been filed by the secretary of  
22 33 state.

22 34 e. Whether the secretary of state has administratively  
22 35 dissolved the company.

23 1 f. Whether the company has delivered to the secretary of  
23 2 state for filing a statement of dissolution.

23 3 g. That a statement of termination has not been filed by  
23 4 the secretary of state.

23 5 h. Other facts of record in the office of the secretary of  
23 6 state which are specified by the person requesting the  
23 7 certificate.

23 8 2. The secretary of state, upon request and payment of the  
23 9 requisite fee, shall furnish to any person a certificate of  
23 10 authorization for a foreign limited liability company if the  
23 11 records filed in the office of the secretary of state show  
23 12 that the secretary of state has filed a certificate of  
23 13 authority, has not revoked the certificate of authority, and  
23 14 has not filed a notice of cancellation. A certificate of  
23 15 authorization must state all of the following:

23 16 a. The company's name and any alternate name adopted under  
23 17 section 489.805, subsection 1, for use in this state.

23 18 b. That the company is authorized to transact business in  
23 19 this state.

23 20 c. Whether all fees, taxes, and penalties due under this  
23 21 chapter or other law to the secretary of state have been paid.

23 22 d. Whether the company's most recent biennial report  
23 23 required by section 489.209 has been filed by the secretary of  
23 24 state.

23 25 e. That the secretary of state has not revoked the  
23 26 company's certificate of authority and has not filed a notice  
23 27 of cancellation.

23 28 f. Other facts of record in the office of the secretary of  
23 29 state which are specified by the person requesting the  
23 30 certificate.

23 31 3. Subject to any qualification stated in the certificate,  
23 32 a certificate of existence or certificate of authorization

23 33 issued by the secretary of state is conclusive evidence that  
23 34 the limited liability company is in existence or the foreign  
23 35 limited liability company is authorized to transact business  
24 1 in this state.  
24 2 Sec. 26. NEW SECTION. 489.209 BIENNIAL REPORT FOR  
24 3 SECRETARY OF STATE.  
24 4 1. A limited liability company or a foreign limited  
24 5 liability company authorized to transact business in this  
24 6 state shall deliver to the secretary of state for filing a  
24 7 biennial report that states all of the following:  
24 8 a. The name of the company.  
24 9 b. The street and mailing addresses of the company's  
24 10 registered office and the name and street and mailing  
24 11 addresses of its registered agent for service of process in  
24 12 this state.  
24 13 c. The street and mailing addresses of its principal  
24 14 office.  
24 15 d. In the case of a foreign limited liability company, the  
24 16 state or other jurisdiction under whose law the company is  
24 17 formed and any alternate name adopted under section 489.805,  
24 18 subsection 1.  
24 19 2. Information in a biennial report under this section  
24 20 must be current as of the date the report is delivered to the  
24 21 secretary of state for filing.  
24 22 3. The first biennial report under this section must be  
24 23 delivered to the secretary of state between January 1 and  
24 24 April 1 of the first odd-numbered year following the calendar  
24 25 year in which a limited liability company was formed or a  
24 26 foreign limited liability company was authorized to transact  
24 27 business. A subsequent biennial report must be delivered to  
24 28 the secretary of state between January 1 and April 1 of each  
24 29 following odd-numbered calendar year.  
24 30 4. If a biennial report under this section does not  
24 31 contain the information required in subsection 1, the  
24 32 secretary of state shall promptly notify the reporting limited  
24 33 liability company or foreign limited liability company and  
24 34 return the report to it for correction. If the report is  
24 35 corrected to contain the information required in subsection 1  
25 1 and delivered to the secretary of state within thirty days  
25 2 after the effective date of the notice, it is timely  
25 3 delivered.  
25 4 5. If a biennial report under this section contains an  
25 5 address of a registered office or the name or address of a  
25 6 registered agent for service of process which differs from the  
25 7 information shown in the records of the secretary of state  
25 8 immediately before the biennial report becomes effective, the  
25 9 differing information in the biennial report is considered a  
25 10 statement of change under section 489.114.

#### 25 11 ARTICLE 3

#### 25 12 RELATIONS OF MEMBERS AND MANAGERS

#### 25 13 TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

25 14 Sec. 27. NEW SECTION. 489.301 NO AGENCY POWER OF MEMBER  
25 15 AS MEMBER.  
25 16 1. A member is not an agent of a limited liability company  
25 17 solely by reason of being a member.  
25 18 2. A person's status as a member does not prevent or  
25 19 restrict law other than this chapter from imposing liability  
25 20 on a limited liability company because of the person's  
25 21 conduct.  
25 22 Sec. 28. NEW SECTION. 489.302 STATEMENT OF AUTHORITY.  
25 23 1. A limited liability company may deliver to the  
25 24 secretary of state for filing a statement of authority. All  
25 25 of the following apply to the statement:  
25 26 a. It must include the name of the company and the street  
25 27 and mailing addresses of its registered office.  
25 28 b. With respect to any position that exists in or with  
25 29 respect to the company, it may state the authority, or  
25 30 limitations on the authority, of all persons holding the  
25 31 position to do any of the following:  
25 32 (1) Execute an instrument transferring real property held  
25 33 in the name of the company.  
25 34 (2) Enter into other transactions on behalf of, or  
25 35 otherwise act for or bind, the company.  
26 1 c. It may state the authority, or limitations on the  
26 2 authority, of a specific person to do any of the following:  
26 3 (1) Execute an instrument transferring real property held  
26 4 in the name of the company.  
26 5 (2) Enter into other transactions on behalf of, or  
26 6 otherwise act for or bind, the company.  
26 7 2. To amend or cancel a statement of authority filed by  
26 8 the secretary of state under section 489.205, subsection 1, a

26 9 limited liability company must deliver to the secretary of  
26 10 state for filing an amendment or cancellation stating all of  
26 11 the following:

- 26 12 a. The name of the company.
- 26 13 b. The street and mailing addresses of the company's  
26 14 registered office.
- 26 15 c. The caption of the statement being amended or canceled  
26 16 and the date the statement being affected became effective.
- 26 17 d. The contents of the amendment or a declaration that the  
26 18 statement being affected is canceled.

26 19 3. A statement of authority affects only the power of a  
26 20 person to bind a limited liability company to persons that are  
26 21 not members.

26 22 4. Subject to subsection 3 and section 489.103, subsection  
26 23 4, and except as otherwise provided in subsections 6, 7, and  
26 24 8, a limitation on the authority of a person or a position  
26 25 contained in an effective statement of authority is not by  
26 26 itself evidence of knowledge or notice of the limitation by  
26 27 any person.

26 28 5. Subject to subsection 3, a grant of authority not  
26 29 pertaining to a transfer of real property and contained in an  
26 30 effective statement of authority is conclusive in favor of a  
26 31 person that gives value in reliance on the grant, except to  
26 32 the extent that when the person gives value and any of the  
26 33 following applies:

- 26 34 a. The person has knowledge to the contrary.
- 26 35 b. The statement has been canceled or restrictively  
27 1 amended under subsection 2.
- 27 2 c. A limitation on the grant is contained in another  
27 3 statement of authority that became effective after the  
27 4 statement containing the grant became effective.

27 5 6. Subject to subsection 3, an effective statement of  
27 6 authority that grants authority to transfer real property held  
27 7 in the name of the limited liability company and that is  
27 8 recorded by certified copy in the office for recording  
27 9 transfers of the real property is conclusive in favor of a  
27 10 person that gives value in reliance on the grant without  
27 11 knowledge to the contrary, except to the extent that when the  
27 12 person gives value and any of the following applies:

- 27 13 a. The statement has been canceled or restrictively  
27 14 amended under subsection 2 and a certified copy of the  
27 15 cancellation or restrictive amendment has been recorded in the  
27 16 office for recording transfers of the real property.
- 27 17 b. A limitation on the grant is contained in another  
27 18 statement of authority that became effective after the  
27 19 statement containing the grant became effective and a  
27 20 certified copy of the later-effective statement is recorded in  
27 21 the office for recording transfers of the real property.

27 22 7. Subject to subsection 3, if a certified copy of an  
27 23 effective statement containing a limitation on the authority  
27 24 to transfer real property held in the name of a limited  
27 25 liability company is recorded in the office for recording  
27 26 transfers of that real property, all persons are deemed to  
27 27 know of the limitation.

27 28 8. Subject to subsection 9, an effective statement of  
27 29 dissolution or statement of termination is a cancellation of  
27 30 any filed statement of authority for the purposes of  
27 31 subsection 6 and is a limitation on authority for the purposes  
27 32 of subsection 7.

27 33 9. After a statement of dissolution becomes effective, a  
27 34 limited liability company may deliver to the secretary of  
27 35 state for filing and, if appropriate, may record a statement  
28 1 of authority that is designated as a post-dissolution  
28 2 statement of authority. The statement operates as provided in  
28 3 subsections 6 and 7.

28 4 10. Unless earlier canceled, an effective statement of  
28 5 authority is canceled by operation of law five years after the  
28 6 date on which the statement, or its most recent amendment,  
28 7 becomes effective. This cancellation operates without need  
28 8 for any recording under subsection 6 or 7.

28 9 11. An effective statement of denial operates as a  
28 10 restrictive amendment under this section and may be recorded  
28 11 by certified copy for the purposes of subsection 6, paragraph  
28 12 "a".

28 13 Sec. 29. NEW SECTION. 489.303 STATEMENT OF DENIAL.

28 14 A person named in a filed statement of authority granting  
28 15 that person authority may deliver to the secretary of state  
28 16 for filing a statement of denial that does all of the  
28 17 following:

- 28 18 1. Provides the name of the limited liability company and  
28 19 the caption of the statement of authority to which the

28 20 statement of denial pertains.  
28 21 2. Denies the grant of authority.  
28 22 Sec. 30. NEW SECTION. 489.304 LIABILITY OF MEMBERS AND  
28 23 MANAGERS.  
28 24 1. For debts, obligations, or other liabilities of a  
28 25 limited liability company, whether arising in contract, tort,  
28 26 or otherwise all of the following apply:  
28 27 a. They are solely the debts, obligations, or other  
28 28 liabilities of the company.  
28 29 b. They do not become the debts, obligations, or other  
28 30 liabilities of a member or manager solely by reason of the  
28 31 member acting as a member or manager acting as a manager.  
28 32 2. The failure of a limited liability company to observe  
28 33 any particular formalities relating to the exercise of its  
28 34 powers or management of its activities is not a ground for  
28 35 imposing liability on the members or managers for the debts,  
29 1 obligations, or other liabilities of the company.

29 2 ARTICLE 4

29 3 RELATIONS OF MEMBERS TO EACH OTHER AND  
29 4 TO LIMITED LIABILITY COMPANY

29 5 Sec. 31. NEW SECTION. 489.401 BECOMING MEMBER.

29 6 1. If a limited liability company is to have only one  
29 7 member upon formation, a person becomes the member as agreed  
29 8 by that person and the organizer of the company or a majority  
29 9 of organizers if more than one. That person and the organizer  
29 10 may be, but need not be, different persons. If different, the  
29 11 organizer acts on behalf of the initial member.

29 12 2. If a limited liability company is to have more than one  
29 13 member upon formation, those persons become members as agreed  
29 14 by the persons before the formation of the company. The  
29 15 organizer acts on behalf of the persons in forming the company  
29 16 and may be, but need not be, one of the persons.

29 17 3. If a limited liability company has no members upon  
29 18 formation, a person becomes a member of the limited liability  
29 19 company with the consent of the organizer or a majority of the  
29 20 organizers if more than one. The organizers may consent to  
29 21 more than one person simultaneously becoming the company's  
29 22 initial members.

29 23 4. After formation of a limited liability company, a  
29 24 person becomes a member upon any of the following:

29 25 a. As provided in the operating agreement.

29 26 b. As the result of a transaction effective under article  
29 27 10.

29 28 c. With the consent of all the members.

29 29 d. If, within ninety consecutive days after the company  
29 30 ceases to have any members and all of the following occur:

29 31 (1) The last person to have been a member, or the legal  
29 32 representative of that person, designates a person to become a  
29 33 member.

29 34 (2) The designated person consents to become a member.

29 35 5. A person may become a member without acquiring a  
30 1 transferable interest and without making or being obligated to  
30 2 make a contribution to the limited liability company.

30 3 Sec. 32. NEW SECTION. 489.402 FORM OF CONTRIBUTION.

30 4 A contribution may consist of tangible or intangible  
30 5 property or other benefit to a limited liability company,  
30 6 including money, services performed, promissory notes, other  
30 7 agreements to contribute money or property, and contracts for  
30 8 services to be performed.

30 9 Sec. 33. NEW SECTION. 489.403 LIABILITY FOR  
30 10 CONTRIBUTIONS.

30 11 1. A person's obligation to make a contribution to a  
30 12 limited liability company is not excused by the person's  
30 13 death, disability, or other inability to perform personally.  
30 14 If a person does not make a required contribution, the person  
30 15 or the person's estate is obligated to contribute money equal  
30 16 to the value of the part of the contribution which has not  
30 17 been made, at the option of the company.

30 18 2. A creditor of a limited liability company which extends  
30 19 credit or otherwise acts in reliance on an obligation  
30 20 described in subsection 1 may enforce the obligation.

30 21 3. An operating agreement may provide that the interest of  
30 22 any member who fails to make a contribution that the member is  
30 23 obligated to make is subject to specified penalties for, or  
30 24 specified consequences of, such failure. The penalty or  
30 25 consequence may take the form of reducing or eliminating the  
30 26 defaulting member's proportionate interest in a limited  
30 27 liability company, subordinating the member's interest to that  
30 28 of a nondefaulting member, a forced sale of the member's  
30 29 interest, forfeiture of the member's interest, the lending by  
30 30 other members of the amount necessary to meet the member's

30 31 commitment, a fixing of the value of the member's interest by  
30 32 appraisal or by formula and redemption, or sale of the  
30 33 member's interest at such value or other penalty or  
30 34 consequence.

30 35 Sec. 34. NEW SECTION. 489.404 SHARING OF AND RIGHT TO  
31 1 DISTRIBUTIONS BEFORE DISSOLUTION.

31 2 1. Any distributions made by a limited liability company  
31 3 before its dissolution and winding up must be in equal shares  
31 4 among members and dissociated members, except to the extent  
31 5 necessary to comply with any transfer effective under section  
31 6 489.502 and any charging order in effect under section  
31 7 489.503.

31 8 2. A person has a right to a distribution before the  
31 9 dissolution and winding up of a limited liability company only  
31 10 if the company decides to make an interim distribution. A  
31 11 person's dissociation does not entitle the person to a  
31 12 distribution.

31 13 3. A person does not have a right to demand or receive a  
31 14 distribution from a limited liability company in any form  
31 15 other than money. Except as otherwise provided in section  
31 16 489.708, subsection 3, a limited liability company may  
31 17 distribute an asset in kind if each part of the asset is  
31 18 fungible with each other part and each person receives a  
31 19 percentage of the asset equal in value to the person's share  
31 20 of distributions.

31 21 4. If a member or transferee becomes entitled to receive a  
31 22 distribution, the member or transferee has the status of, and  
31 23 is entitled to all remedies available to, a creditor of the  
31 24 limited liability company with respect to the distribution.

31 25 Sec. 35. NEW SECTION. 489.405 LIMITATIONS ON  
31 26 DISTRIBUTION.

31 27 1. A limited liability company shall not make a  
31 28 distribution if after the distribution any of the following  
31 29 applies:

31 30 a. The company would not be able to pay its debts as they  
31 31 become due in the ordinary course of the company's activities.

31 32 b. The company's total assets would be less than the sum  
31 33 of its total liabilities plus the amount that would be needed,  
31 34 if the company were to be dissolved, wound up, and terminated  
31 35 at the time of the distribution, to satisfy the preferential  
32 1 rights upon dissolution, winding up, and termination of  
32 2 members whose preferential rights are superior to those of  
32 3 persons receiving the distribution.

32 4 2. A limited liability company may base a determination  
32 5 that a distribution is not prohibited under subsection 1 on  
32 6 financial statements prepared on the basis of accounting  
32 7 practices and principles that are reasonable in the  
32 8 circumstances or on a fair valuation or other method that is  
32 9 reasonable under the circumstances.

32 10 3. Except as otherwise provided in subsection 5, the  
32 11 effect of a distribution under subsection 1 is measured as  
32 12 follows:

32 13 a. In the case of a distribution by purchase, redemption,  
32 14 or other acquisition of a transferable interest in the  
32 15 company, as of the date money or other property is transferred  
32 16 or debt incurred by the company.

32 17 b. In all other cases, as follows:

32 18 (1) The date that distribution is authorized, if the  
32 19 payment occurs within one hundred twenty days after that date.

32 20 (2) The date that payment is made, if the payment occurs  
32 21 more than one hundred twenty days after the distribution is  
32 22 authorized.

32 23 4. A limited liability company's indebtedness to a member  
32 24 incurred by reason of a distribution made in accordance with  
32 25 this section is at parity with the company's indebtedness to  
32 26 its general, unsecured creditors.

32 27 5. A limited liability company's indebtedness, including  
32 28 indebtedness issued in connection with or as part of a  
32 29 distribution, is not a liability for purposes of subsection 1  
32 30 if the terms of the indebtedness provide that payment of  
32 31 principal and interest are made only to the extent that a  
32 32 distribution could be made to members under this section. If  
32 33 indebtedness is issued as a distribution, each payment of  
32 34 principal or interest on the indebtedness is treated as a  
32 35 distribution, the effect of which is measured on the date the  
33 1 payment is made.

33 2 6. In subsection 1, "distribution" does not include  
33 3 amounts constituting reasonable compensation for present or  
33 4 past services or reasonable payments made in the ordinary  
33 5 course of business under a bona fide retirement plan or other  
33 6 benefits program.

33 7 Sec. 36. NEW SECTION. 489.406 LIABILITY FOR IMPROPER  
33 8 DISTRIBUTIONS.

33 9 1. Except as otherwise provided in subsection 2, if a  
33 10 member of a member=managed limited liability company or  
33 11 manager of a manager=managed limited liability company  
33 12 consents to a distribution made in violation of section  
33 13 489.405 and in consenting to the distribution fails to comply  
33 14 with section 489.409, the member or manager is personally  
33 15 liable to the company for the amount of the distribution that  
33 16 exceeds the amount that could have been distributed without  
33 17 the violation of section 489.405.

33 18 2. To the extent the operating agreement of a  
33 19 member=managed limited liability company expressly relieves a  
33 20 member of the authority and responsibility to consent to  
33 21 distributions and imposes that authority and responsibility on  
33 22 one or more other members, the liability stated in subsection  
33 23 1 applies to the other members and not the member that the  
33 24 operating agreement relieves of authority and responsibility.

33 25 3. A person that receives a distribution knowing that the  
33 26 distribution to that person was made in violation of section  
33 27 489.405 is personally liable to the limited liability company  
33 28 but only to the extent that the distribution received by the  
33 29 person exceeded the amount that could have been properly paid  
33 30 under section 489.405.

33 31 4. A person against which an action is commenced because  
33 32 the person is liable under subsection 1 may do all of the  
33 33 following:

33 34 a. Implead any other person that is subject to liability  
33 35 under subsection 1 and seek to compel contribution from the  
34 1 person.

34 2 b. Implead any person that received a distribution in  
34 3 violation of subsection 3 and seek to compel contribution from  
34 4 the person in the amount the person received in violation of  
34 5 subsection 3.

34 6 5. An action under this section is barred if not commenced  
34 7 within two years after the distribution.

34 8 Sec. 37. NEW SECTION. 489.407 MANAGEMENT OF LIMITED  
34 9 LIABILITY COMPANY.

34 10 1. A limited liability company is a member=managed limited  
34 11 liability company unless the operating agreement does any of  
34 12 the following:

34 13 a. Expressly provides that any of the following apply:

- 34 14 (1) The company is or will be "manager=managed".  
34 15 (2) The company is or will be "managed by managers".  
34 16 (3) Management of the company is or will be "vested in  
34 17 managers".

34 18 b. Includes words of similar import.

34 19 2. In a member=managed limited liability company, all of  
34 20 the following rules apply:

34 21 a. The management and conduct of the company are vested in  
34 22 the members.

34 23 b. Each member has equal rights in the management and  
34 24 conduct of the company's activities.

34 25 c. A difference arising among members as to a matter in  
34 26 the ordinary course of the activities of the company may be  
34 27 decided by a majority of the members.

34 28 d. An act outside the ordinary course of the activities of  
34 29 the company, including selling, leasing, exchanging, or  
34 30 otherwise disposing of all, or substantially all, of the  
34 31 company's property, with or without the goodwill, may be  
34 32 undertaken only with the consent of all members.

34 33 e. The operating agreement may be amended only with the  
34 34 consent of all members.

34 35 f. Approve a merger, conversion, or domestication under  
35 1 article 10.

35 2 3. In a manager=managed limited liability company, all of  
35 3 the following rules apply:

35 4 a. Except as otherwise expressly provided in this chapter,  
35 5 any matter relating to the activities of the company is  
35 6 decided exclusively by the managers.

35 7 b. Each manager has equal rights in the management and  
35 8 conduct of the activities of the company.

35 9 c. A difference arising among managers as to a matter in  
35 10 the ordinary course of the activities of the company may be  
35 11 decided by a majority of the managers.

35 12 d. The consent of all members is required to do any of the  
35 13 following:

- 35 14 (1) Sell, lease, exchange, or otherwise dispose of all, or  
35 15 substantially all, of the company's property, with or without  
35 16 the goodwill, outside the ordinary course of the company's  
35 17 activities.

35 18 (2) Approve a merger, conversion, or domestication under  
35 19 article 10.  
35 20 (3) Undertake any other act outside the ordinary course of  
35 21 the company's activities.  
35 22 (4) Amend the operating agreement.  
35 23 e. A manager may be chosen at any time by the consent of a  
35 24 majority of the members and remains a manager until a  
35 25 successor has been chosen, unless the manager at an earlier  
35 26 time resigns, is removed, or dies, or, in the case of a  
35 27 manager that is not an individual, terminates. A manager may  
35 28 be removed at any time by the consent of a majority of the  
35 29 members without notice or cause.  
35 30 f. A person need not be a member to be a manager, but the  
35 31 dissociation of a member that is also a manager removes the  
35 32 person as a manager. If a person that is both a manager and a  
35 33 member ceases to be a manager, that cessation does not by  
35 34 itself dissociate the person as a member.  
35 35 g. A person's ceasing to be a manager does not discharge  
36 1 any debt, obligation, or other liability to the limited  
36 2 liability company or members which the person incurred while a  
36 3 manager.  
36 4 4. An action requiring the consent of members under this  
36 5 chapter may be taken without a meeting, and a member may  
36 6 appoint a proxy or other agent to consent or otherwise act for  
36 7 the member by signing an appointing record, personally or by  
36 8 the member's agent.  
36 9 5. The dissolution of a limited liability company does not  
36 10 affect the applicability of this section. However, a person  
36 11 that wrongfully causes dissolution of the company loses the  
36 12 right to participate in management as a member and a manager.  
36 13 6. This chapter does not entitle a member to remuneration  
36 14 for services performed for a member-managed limited liability  
36 15 company, except for reasonable compensation for services  
36 16 rendered in winding up the activities of the company.  
36 17 Sec. 38. NEW SECTION. 489.408 INDEMNIFICATION AND  
36 18 INSURANCE.  
36 19 1. A limited liability company shall reimburse for any  
36 20 payment made and indemnify for any debt, obligation, or other  
36 21 liability incurred by a member of a member-managed company or  
36 22 the manager of a manager-managed company in the course of the  
36 23 member's or manager's activities on behalf of the company, if,  
36 24 in making the payment or incurring the debt, obligation, or  
36 25 other liability, the member or manager complied with the  
36 26 duties stated in sections 489.405 and 489.409.  
36 27 2. A limited liability company may purchase and maintain  
36 28 insurance on behalf of a member or manager of the company  
36 29 against liability asserted against or incurred by the member  
36 30 or manager in that capacity or arising from that status even  
36 31 if, under section 489.110, subsection 7, the operating  
36 32 agreement could not eliminate or limit the person's liability  
36 33 to the company for the conduct giving rise to the liability.  
36 34 Sec. 39. NEW SECTION. 489.409 STANDARDS OF CONDUCT FOR  
36 35 MEMBERS AND MANAGERS.  
37 1 1. A member of a member-managed limited liability company  
37 2 owes to the company and, subject to section 489.901,  
37 3 subsection 2, the other members the fiduciary duties of  
37 4 loyalty and care stated in subsections 2 and 3.  
37 5 2. The duty of loyalty of a member in a member-managed  
37 6 limited liability company includes all of the following  
37 7 duties:  
37 8 a. To account to the company and to hold as trustee for it  
37 9 any property, profit, or benefit derived by the member  
37 10 regarding any of the following:  
37 11 (1) In the conduct or winding up of the company's  
37 12 activities.  
37 13 (2) From a use by the member of the company's property.  
37 14 (3) From the appropriation of a limited liability company  
37 15 opportunity.  
37 16 b. To refrain from dealing with the company in the conduct  
37 17 or winding up of the company's activities as or on behalf of a  
37 18 person having an interest adverse to the company.  
37 19 c. To refrain from competing with the company in the  
37 20 conduct of the company's activities before the dissolution of  
37 21 the company.  
37 22 3. Subject to the business judgment rule as stated in  
37 23 subsection 7, the duty of care of a member of a member-managed  
37 24 limited liability company in the conduct and winding up of the  
37 25 company's activities is to act with the care that a person in  
37 26 a like position would reasonably exercise under similar  
37 27 circumstances and in a manner the member reasonably believes  
37 28 to be in the best interests of the company. In discharging



37 29 this duty, a member may rely in good faith upon opinions,  
37 30 reports, statements, or other information provided by another  
37 31 person that the member reasonably believes is a competent and  
37 32 reliable source for the information.

37 33 4. A member in a member=managed limited liability company  
37 34 or a manager=managed limited liability company shall discharge  
37 35 the duties under this chapter or under the operating agreement  
38 1 and exercise any rights consistently with the contractual  
38 2 obligation of good faith and fair dealing.

38 3 5. It is a defense to a claim under subsection 2,  
38 4 paragraph "b", and any comparable claim in equity or at common  
38 5 law that the transaction was fair to the limited liability  
38 6 company.

38 7 6. All of the members of a member=managed limited  
38 8 liability company or a manager=managed limited liability  
38 9 company may authorize or ratify, after full disclosure of all  
38 10 material facts, a specific act or transaction that otherwise  
38 11 would violate the duty of loyalty.

38 12 7. a. A member satisfies the duty of care in subsection 3  
38 13 if all of the following apply:

38 14 (1) The member is not interested in the subject matter of  
38 15 the business judgment.

38 16 (2) The member is informed with respect to the subject of  
38 17 the business judgment to the extent the member reasonably  
38 18 believes to be appropriate in the circumstances.

38 19 (3) The member has a rational basis for believing that the  
38 20 business judgment is in the best interests of the limited  
38 21 liability company.

38 22 b. A person challenging the business judgment of a member  
38 23 has the burden of proving a breach of the duty of care, and in  
38 24 a damage action, the burden of proving that the breach was the  
38 25 legal cause of damage suffered by the limited liability  
38 26 company.

38 27 8. In a manager=managed limited liability company, all of  
38 28 the following rules apply:

38 29 a. Subsections 1, 2, 3, 5, and 7 apply to the manager or  
38 30 managers and not the members.

38 31 b. The duty stated under subsection 2, paragraph "c",  
38 32 continues until winding up is completed.

38 33 c. Subsection 4 applies to the members and managers.

38 34 d. Subsection 6 applies only to the members.

38 35 e. A member does not have any fiduciary duty to the  
39 1 company or to any other member solely by reason of being a  
39 2 member.

39 3 Sec. 40. NEW SECTION. 489.410 RIGHT OF MEMBERS,  
39 4 MANAGERS, AND DISSOCIATED MEMBERS TO INFORMATION.

39 5 1. In a member=managed limited liability company, all of  
39 6 the following rules apply:

39 7 a. On reasonable notice, a member may inspect and copy  
39 8 during regular business hours, at a reasonable location  
39 9 specified by the company, any record maintained by the company  
39 10 regarding the company's activities, financial condition, and  
39 11 other circumstances, to the extent the information is material  
39 12 to the member's rights and duties under the operating  
39 13 agreement or this chapter.

39 14 b. The company shall furnish to each member all of the  
39 15 following:

39 16 (1) Without demand, any information concerning the  
39 17 company's activities, financial condition, and other  
39 18 circumstances which the company knows and is material to the  
39 19 proper exercise of the member's rights and duties under the  
39 20 operating agreement or this chapter, except to the extent the  
39 21 company can establish that it reasonably believes the member  
39 22 already knows the information.

39 23 (2) On demand, any other information concerning the  
39 24 company's activities, financial condition, and other  
39 25 circumstances, except to the extent the demand or information  
39 26 demanded is unreasonable or otherwise improper under the  
39 27 circumstances.

39 28 c. The duty to furnish information under paragraph "b"  
39 29 also applies to each member to the extent the member knows any  
39 30 of the information described in paragraph "b".

39 31 2. In a manager=managed limited liability company, all of  
39 32 the following rules apply:

39 33 a. The informational rights stated in subsection 1 and the  
39 34 duty stated in subsection 1, paragraph "c", apply to the  
39 35 managers and not the members.

40 1 b. During regular business hours and at a reasonable  
40 2 location specified by the company, a member may obtain from  
40 3 the company and inspect and copy full information regarding  
40 4 the activities, financial condition, and other circumstances

40 5 of the company as is just and reasonable if all of the  
40 6 following apply:  
40 7 (1) The member seeks the information for a purpose  
40 8 material to the member's interest as a member.  
40 9 (2) The member makes a demand in a record received by the  
40 10 company, describing with reasonable particularity the  
40 11 information sought and the purpose for seeking the  
40 12 information.  
40 13 (3) The information sought is directly connected to the  
40 14 member's purpose.  
40 15 c. Within ten days after receiving a demand pursuant to  
40 16 paragraph "b", subparagraph (2), the company shall in a record  
40 17 inform the member that made the demand all of the following:  
40 18 (1) Of the information that the company will provide in  
40 19 response to the demand and when and where the company will  
40 20 provide the information.  
40 21 (2) If the company declines to provide any demanded  
40 22 information, the company's reasons for declining.  
40 23 d. Whenever this chapter or an operating agreement  
40 24 provides for a member to give or withhold consent to a matter,  
40 25 before the consent is given or withheld, the company shall,  
40 26 without demand, provide the member with all information that  
40 27 is known to the company and is material to the member's  
40 28 decision.  
40 29 3. On ten days' demand made in a record received by a  
40 30 limited liability company, a dissociated member may have  
40 31 access to information to which the person was entitled while a  
40 32 member if the information pertains to the period during which  
40 33 the person was a member, the person seeks the information in  
40 34 good faith, and the person satisfies the requirements imposed  
40 35 on a member by subsection 2, paragraph "b". The company shall  
41 1 respond to a demand made pursuant to this subsection in the  
41 2 manner provided in subsection 2, paragraph "c".  
41 3 4. A limited liability company may charge a person that  
41 4 makes a demand under this section the reasonable costs of  
41 5 copying, limited to the costs of labor and material.  
41 6 5. A member or dissociated member may exercise rights  
41 7 under this section through an agent or, in the case of an  
41 8 individual under legal disability, a legal representative.  
41 9 Any restriction or condition imposed by the operating  
41 10 agreement or under subsection 7 applies both to the agent or  
41 11 legal representative and the member or dissociated member.  
41 12 6. The rights under this section do not extend to a person  
41 13 as transferee.  
41 14 7. In addition to any restriction or condition stated in  
41 15 its operating agreement, a limited liability company, as a  
41 16 matter within the ordinary course of its activities, may  
41 17 impose reasonable restrictions and conditions on access to and  
41 18 use of information to be furnished under this section,  
41 19 including designating information confidential and imposing  
41 20 nondisclosure and safeguarding obligations on the recipient.  
41 21 In a dispute concerning the reasonableness of a restriction  
41 22 under this subsection, the company has the burden of proving  
41 23 reasonableness.

#### 41 24 ARTICLE 5

41 25 TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS  
41 26 Sec. 41. NEW SECTION. 489.501 NATURE OF TRANSFERABLE  
41 27 INTEREST.

41 28 A transferable interest is personal property.

41 29 Sec. 42. NEW SECTION. 489.502 TRANSFER OF TRANSFERABLE  
41 30 INTEREST.

41 31 1. For a transfer, in whole or in part, all of the  
41 32 following applies to a transferable interest:

41 33 a. It is permissible.

41 34 b. It does not by itself cause a member's dissociation or  
41 35 a dissolution and winding up of the limited liability  
42 1 company's activities.

42 2 c. Subject to section 489.504, it does not entitle the  
42 3 transferee to do any of the following:

42 4 (1) Participate in the management or conduct of the  
42 5 company's activities.

42 6 (2) Except as otherwise provided in subsection 3, have  
42 7 access to records or other information concerning the  
42 8 company's activities.

42 9 2. A transferee has the right to receive, in accordance  
42 10 with the transfer, distributions to which the transferor would  
42 11 otherwise be entitled.

42 12 3. In a dissolution and winding up of a limited liability  
42 13 company, a transferee is entitled to an account of the  
42 14 company's transactions only from the date of dissolution.

42 15 4. A transferable interest may be evidenced by a

42 16 certificate of the interest issued by the limited liability  
42 17 company in a record, and, subject to this section, the  
42 18 interest represented by the certificate may be transferred by  
42 19 a transfer of the certificate.

42 20 5. A limited liability company need not give effect to a  
42 21 transferee's rights under this section until the company has  
42 22 notice of the transfer.

42 23 6. A transfer of a transferable interest in violation of a  
42 24 restriction on transfer contained in the operating agreement  
42 25 or another agreement to which the transferor is a party is  
42 26 ineffective as to a person having notice of the restriction at  
42 27 the time of transfer.

42 28 7. Except as otherwise provided in section 489.602,  
42 29 subsection 4, paragraph "b", when a member transfers a  
42 30 transferable interest, the transferor retains the rights of a  
42 31 member other than the interest in distributions transferred  
42 32 and retains all duties and obligations of a member.

42 33 8. When a member transfers a transferable interest to a  
42 34 person that becomes a member with respect to the transferred  
42 35 interest, the transferee is liable for the member's  
43 1 obligations under section 489.403 and section 489.406,  
43 2 subsection 3, known to the transferee when the transferee  
43 3 becomes a member.

43 4 Sec. 43. NEW SECTION. 489.503 CHARGING ORDER.

43 5 1. On application by a judgment creditor of a member or  
43 6 transferee, a court may enter a charging order against the  
43 7 transferable interest of the judgment debtor for the  
43 8 unsatisfied amount of the judgment. A charging order  
43 9 constitutes a lien on a judgment debtor's transferable  
43 10 interest and requires the limited liability company to pay  
43 11 over to the person to which the charging order was issued any  
43 12 distribution that would otherwise be paid to the judgment  
43 13 debtor.

43 14 2. To the extent necessary to effectuate the collection of  
43 15 distributions pursuant to a charging order in effect under  
43 16 subsection 1, the court may do all of the following:

43 17 a. Appoint a receiver of the distributions subject to the  
43 18 charging order, with the power to make all inquiries the  
43 19 judgment debtor might have made.

43 20 b. Make all other orders necessary to give effect to the  
43 21 charging order.

43 22 3. Upon a showing that distributions under a charging  
43 23 order will not pay the judgment debt within a reasonable time,  
43 24 the court may foreclose the lien and order the sale of the  
43 25 transferable interest. The purchaser at the foreclosure sale  
43 26 only obtains the transferable interest, does not thereby  
43 27 become a member, and is subject to section 489.502.

43 28 4. At any time before foreclosure under subsection 3, the  
43 29 member or transferee whose transferable interest is subject to  
43 30 a charging order under subsection 1 may extinguish the  
43 31 charging order by satisfying the judgment and filing a  
43 32 certified copy of the satisfaction with the court that issued  
43 33 the charging order.

43 34 5. At any time before foreclosure under subsection 3, a  
43 35 limited liability company or one or more members whose  
44 1 transferable interests are not subject to the charging order  
44 2 may pay to the judgment creditor the full amount due under the  
44 3 judgment and thereby succeed to the rights of the judgment  
44 4 creditor, including the charging order.

44 5 6. This chapter does not deprive any member or transferee  
44 6 of the benefit of any exemption laws applicable to the  
44 7 member's or transferee's transferable interest.

44 8 7. This section provides the exclusive remedy by which a  
44 9 person seeking to enforce a judgment against a member or  
44 10 transferee may, in the capacity of judgment creditor, satisfy  
44 11 the judgment from the judgment debtor's transferable interest.

44 12 Sec. 44. NEW SECTION. 489.504 POWER OF PERSONAL  
44 13 REPRESENTATIVE OF DECEASED MEMBER.

44 14 If a member dies, the deceased member's personal  
44 15 representative or other legal representative may exercise the  
44 16 rights of a transferee provided in section 489.502, subsection  
44 17 3, and, for the purposes of settling the estate, the rights of  
44 18 a current member under section 489.410.

44 19 ARTICLE 6  
44 20 MEMBER'S DISSOCIATION

44 21 Sec. 45. NEW SECTION. 489.601 MEMBER'S POWER TO  
44 22 DISSOCIATE == WRONGFUL DISSOCIATION.

44 23 1. A person has the power to dissociate as a member at any  
44 24 time, rightfully or wrongfully, by withdrawing as a member by  
44 25 express will under section 489.602, subsection 1.

44 26 2. A person's dissociation from a limited liability

44 27 company is wrongful only if any of the following applies to  
44 28 the dissociation:

- 44 29 a. It is in breach of an express provision of the  
44 30 operating agreement.
- 44 31 b. It occurs before the termination of the company and any  
44 32 of the following applies:
  - 44 33 (1) The person withdraws as a member by express will.
  - 44 34 (2) The person is expelled as a member by judicial order  
44 35 under section 489.602, subsection 5.
  - 45 1 (3) The person is dissociated under section 489.602,  
45 2 subsection 7, paragraph "a", by becoming a debtor in  
45 3 bankruptcy.
  - 45 4 (4) In the case of a person that is not a trust other than  
45 5 a business trust, an estate, or an individual, the person is  
45 6 expelled or otherwise dissociated as a member because it  
45 7 willfully dissolved or terminated.

45 8 3. A person that wrongfully dissociates as a member is  
45 9 liable to the limited liability company and, subject to  
45 10 section 489.901, to the other members for damages caused by  
45 11 the dissociation. The liability is in addition to any other  
45 12 debt, obligation, or other liability of the member to the  
45 13 company or the other members.

45 14 Sec. 46. NEW SECTION. 489.602 EVENTS CAUSING  
45 15 DISSOCIATION.

45 16 A person is dissociated as a member from a limited  
45 17 liability company when any of the following applies:

- 45 18 1. The company has notice of the person's express will to  
45 19 withdraw as a member, but, if the person specified a  
45 20 withdrawal date later than the date the company had notice, on  
45 21 that later date.
- 45 22 2. An event stated in the operating agreement as causing  
45 23 the person's dissociation occurs.
- 45 24 3. The person is expelled as a member pursuant to the  
45 25 operating agreement.
- 45 26 4. The person is expelled as a member by the unanimous  
45 27 consent of the other members if any of the following applies:
  - 45 28 a. It is unlawful to carry on the company's activities  
45 29 with the person as a member.
  - 45 30 b. There has been a transfer of all of the person's  
45 31 transferable interest in the company, other than any of the  
45 32 following:
    - 45 33 (1) A transfer for security purposes.
    - 45 34 (2) A charging order in effect under section 489.503 which  
45 35 has not been foreclosed.
  - 46 1 c. The person is a corporation and, within ninety days  
46 2 after the company notifies the person that it will be expelled  
46 3 as a member because the person has filed a certificate of  
46 4 dissolution or the equivalent, its charter has been revoked,  
46 5 or its right to conduct business has been suspended by the  
46 6 jurisdiction of its incorporation, the certificate of  
46 7 dissolution has not been revoked or its charter or right to  
46 8 conduct business has not been reinstated.
  - 46 9 d. The person is a limited liability company or  
46 10 partnership that has been dissolved and whose business is  
46 11 being wound up.
- 46 12 5. On application by the company, the person is expelled  
46 13 as a member by judicial order because the person has done any  
46 14 of the following:
  - 46 15 a. Has engaged, or is engaging, in wrongful conduct that  
46 16 has adversely and materially affected, or will adversely and  
46 17 materially affect, the company's activities.
  - 46 18 b. Has willfully or persistently committed, or is  
46 19 willfully and persistently committing, a material breach of  
46 20 the operating agreement or the person's duties or obligations  
46 21 under section 489.409.
  - 46 22 c. Has engaged in, or is engaging in, conduct relating to  
46 23 the company's activities which makes it not reasonably  
46 24 practicable to carry on the activities with the person as a  
46 25 member.
  - 46 26 6. In the case of a person who is an individual, any of  
46 27 the following applies:
    - 46 28 a. The person dies.
    - 46 29 b. In a member-managed limited liability company any of  
46 30 the following applies:
      - 46 31 (1) A guardian or general conservator for the person is  
46 32 appointed.
      - 46 33 (2) There is a judicial order that the person has  
46 34 otherwise become incapable of performing the person's duties  
46 35 as a member under this chapter or the operating agreement.
    - 47 1 7. In a member-managed limited liability company, the  
47 2 person does any of the following:

47 3 a. Becomes a debtor in bankruptcy.  
47 4 b. Executes an assignment for the benefit of creditors.  
47 5 c. Seeks, consents to, or acquiesces in the appointment of  
47 6 a trustee, receiver, or liquidator of the person or of all or  
47 7 substantially all of the person's property.  
47 8 8. In the case of a person that is a trust or is acting as  
47 9 a member by virtue of being a trustee of a trust, the trust's  
47 10 entire transferable interest in the company is distributed.  
47 11 9. In the case of a person that is an estate or is acting  
47 12 as a member by virtue of being a personal representative of an  
47 13 estate, the estate's entire transferable interest in the  
47 14 company is distributed.  
47 15 10. In the case of a member that is not an individual,  
47 16 partnership, limited liability company, corporation, trust, or  
47 17 estate, the termination of the member.  
47 18 11. The company participates in a merger under article 10,  
47 19 if any of the following applies:  
47 20 a. The company is not the surviving entity.  
47 21 b. Otherwise as a result of the merger, the person ceases  
47 22 to be a member.  
47 23 12. The company participates in a conversion under article  
47 24 10.  
47 25 13. The company participates in a domestication under  
47 26 article 10, if, as a result of the domestication, the person  
47 27 ceases to be a member.  
47 28 14. The company terminates.  
47 29 Sec. 47. NEW SECTION. 489.603 EFFECT OF PERSON'S  
47 30 DISSOCIATION AS MEMBER.  
47 31 1. When a person is dissociated as a member of a limited  
47 32 liability company, all of the following apply:  
47 33 a. The person's right to participate as a member in the  
47 34 management and conduct of the company's activities terminates.  
47 35 b. If the company is member-managed, the person's  
48 1 fiduciary duties as a member end with regard to matters  
48 2 arising and events occurring after the person's dissociation.  
48 3 c. Subject to section 489.504 and article 10, any  
48 4 transferable interest owned by the person immediately before  
48 5 dissociation in the person's capacity as a member is owned by  
48 6 the person solely as a transferee.  
48 7 2. A person's dissociation as a member of a limited  
48 8 liability company does not of itself discharge the person from  
48 9 any debt, obligation, or other liability to the company or the  
48 10 other members which the person incurred while a member.  
48 11 Sec. 48. NEW SECTION. 489.604 MEMBER'S POWER TO  
48 12 DISSOCIATE UNDER CERTAIN CIRCUMSTANCES.  
48 13 1. If the certificate of organization or an operating  
48 14 agreement does not specify the time or the events upon the  
48 15 happening of which a member may dissociate, a member may  
48 16 dissociate from the limited liability company in the event any  
48 17 amendment to the certificate of organization or operating  
48 18 agreement that is adopted over the member's written dissent  
48 19 adversely affects the rights or preferences of the dissenting  
48 20 member's transferable interest in any of the ways described in  
48 21 paragraphs "a" through "f". A dissociation in the event of  
48 22 such dissent and adverse effect is deemed to have occurred as  
48 23 of the effective date of the amendment, if the member gives  
48 24 notice to the limited liability company not more than sixty  
48 25 days after the date of the amendment. In valuing the member's  
48 26 distribution pursuant to this subsection, any depreciation in  
48 27 anticipation of the amendment shall be excluded. An amendment  
48 28 that does any of the following is subject to this section:  
48 29 a. Alters or abolishes a member's right to receive a  
48 30 distribution.  
48 31 b. Alters or abolishes a member's right to voluntarily  
48 32 dissociate.  
48 33 c. Alters or abolishes a member's right to vote on any  
48 34 matter, except as the rights may be altered or abolished  
48 35 through the acceptance of contributions or the making of  
49 1 contribution agreements.  
49 2 d. Alters or abolishes a member's preemptive right to make  
49 3 contributions.  
49 4 e. Establishes or changes the conditions for or  
49 5 consequences of expulsion.  
49 6 f. Waives the application of this section to the limited  
49 7 liability company.  
49 8 2. A member dissociating under this section is not liable  
49 9 for damages for the breach of any agreement not to withdraw.  
49 10 3. This section applies to a limited liability company  
49 11 whose original articles of organization or certificate of  
49 12 organization is filed with the secretary of state on or after  
49 13 July 1, 1997.

49 14 4. This section applies to a limited liability company  
49 15 whose original articles of organization are filed with the  
49 16 secretary of state and effective on or prior to June 30, 1997,  
49 17 if such company's operating agreement provides that it is  
49 18 subject to this section.

49 19 5. The operating agreement of a limited liability company  
49 20 may waive the applicability of this section to the company and  
49 21 its members.

#### 49 22 ARTICLE 7

#### 49 23 DISSOLUTION AND WINDING UP

49 24 Sec. 49. NEW SECTION. 489.701 EVENTS CAUSING  
49 25 DISSOLUTION.

49 26 1. A limited liability company is dissolved, and its  
49 27 activities must be wound up, upon the occurrence of any of the  
49 28 following:

49 29 a. An event or circumstance that the operating agreement  
49 30 states causes dissolution.

49 31 b. The consent of all the members.

49 32 c. Once the company has at least one member, the passage  
49 33 of ninety consecutive days during which the company has no  
49 34 members.

49 35 d. On application by a member, the entry by a district  
50 1 court of an order dissolving the company on the grounds that  
50 2 any of the following applies:

50 3 (1) The conduct of all or substantially all of the  
50 4 company's activities is unlawful.

50 5 (2) It is not reasonably practicable to carry on the  
50 6 company's activities in conformity with the certificate of  
50 7 organization and the operating agreement.

50 8 e. On application by a member or transferee, the entry by  
50 9 a district court of an order dissolving the company on the  
50 10 grounds that the managers or those members in control of the  
50 11 company have done any of the following:

50 12 (1) Have acted, are acting, or will act in a manner that  
50 13 is illegal or fraudulent.

50 14 (2) Have acted or are acting in a manner that is  
50 15 oppressive and was, is, or will be directly harmful to the  
50 16 applicant.

50 17 2. In a proceeding brought under subsection 1, paragraph  
50 18 "e", the court may order a remedy other than dissolution.

50 19 Sec. 50. NEW SECTION. 489.702 WINDING UP.

50 20 1. A dissolved limited liability company shall wind up its  
50 21 activities, and the company continues after dissolution only  
50 22 for the purpose of winding up.

50 23 2. In winding up its activities, all of the following  
50 24 apply to a limited liability company:

50 25 a. It shall discharge the company's debts, obligations, or  
50 26 other liabilities, settle and close the company's activities,  
50 27 and marshal and distribute the assets of the company.

50 28 b. It may do all of the following:

50 29 (1) Deliver to the secretary of state for filing a  
50 30 statement of dissolution stating the name of the company and  
50 31 that the company is dissolved.

50 32 (2) Preserve the company activities and property as a  
50 33 going concern for a reasonable time.

50 34 (3) Prosecute and defend actions and proceedings, whether  
50 35 civil, criminal, or administrative.

51 1 (4) Transfer the company's property.

51 2 (5) Settle disputes by mediation or arbitration.

51 3 (6) Deliver to the secretary of state for filing a  
51 4 statement of termination stating the name of the company and  
51 5 that the company is terminated.

51 6 (7) Perform other acts necessary or appropriate to the  
51 7 winding up.

51 8 3. If a dissolved limited liability company has no  
51 9 members, the legal representative of the last person to have  
51 10 been a member may wind up the activities of the company. If  
51 11 the person does so, the person has the powers of a sole  
51 12 manager under section 489.407, subsection 3, and is deemed to  
51 13 be a manager for the purposes of section 489.304, subsection  
51 14 1, paragraph "b".

51 15 4. If the legal representative under subsection 3 declines  
51 16 or fails to wind up the company's activities, a person may be  
51 17 appointed to do so by the consent of transferees owning a  
51 18 majority of the rights to receive distributions as transferees  
51 19 at the time the consent is to be effective. All of the  
51 20 following apply to a person appointed under this subsection:

51 21 a. The person has the powers of a sole manager under  
51 22 section 489.407, subsection 3, and is deemed to be a manager  
51 23 for the purposes of section 489.304, subsection 1, paragraph  
51 24 "b".

51 25 b. The person shall promptly deliver to the secretary of  
51 26 state for filing an amendment to the company's certificate of  
51 27 organization to do all of the following:  
51 28 (1) State that the company has no members.  
51 29 (2) State that the person has been appointed pursuant to  
51 30 this subsection to wind up the company.  
51 31 (3) Provide the street and mailing addresses of the  
51 32 person.  
51 33 5. The district court may order judicial supervision of  
51 34 the winding up of a dissolved limited liability company,  
51 35 including the appointment of a person to wind up the company's  
52 1 activities pursuant to any of the following:  
52 2 a. On application of a member, if the applicant  
52 3 establishes good cause.  
52 4 b. On the application of a transferee, if all of the  
52 5 following apply:  
52 6 (1) The company does not have any members.  
52 7 (2) The legal representative of the last person to have  
52 8 been a member declines or fails to wind up the company's  
52 9 activities.  
52 10 (3) Within a reasonable time following the dissolution a  
52 11 person has not been appointed pursuant to subsection 3.  
52 12 c. In connection with a proceeding under section 489.701,  
52 13 subsection 1, paragraph "d" or "e".  
52 14 Sec. 51. NEW SECTION. 489.703 KNOWN CLAIMS AGAINST  
52 15 DISSOLVED LIMITED LIABILITY COMPANY.  
52 16 1. Except as otherwise provided in subsection 4, a  
52 17 dissolved limited liability company may give notice of a known  
52 18 claim under subsection 2, which has the effect as provided in  
52 19 subsection 3.  
52 20 2. A dissolved limited liability company may in a record  
52 21 notify its known claimants of the dissolution. The notice  
52 22 must do all of the following:  
52 23 a. Specify the information required to be included in a  
52 24 claim.  
52 25 b. Provide a mailing address to which the claim is to be  
52 26 sent.  
52 27 c. State the deadline for receipt of the claim, which may  
52 28 not be less than one hundred twenty days after the date the  
52 29 notice is received by the claimant.  
52 30 d. State that the claim will be barred if not received by  
52 31 the deadline.  
52 32 3. A claim against a dissolved limited liability company  
52 33 is barred if the requirements of subsection 2 are met and any  
52 34 of the following applies:  
52 35 a. The claim is not received by the specified deadline.  
53 1 b. If the claim is timely received but rejected by the  
53 2 company, all of the following apply:  
53 3 (1) The company causes the claimant to receive a notice in  
53 4 a record stating that the claim is rejected and will be barred  
53 5 unless the claimant commences an action against the company to  
53 6 enforce the claim within ninety days after the claimant  
53 7 receives the notice.  
53 8 (2) The claimant does not commence the required action  
53 9 within the ninety days.  
53 10 4. This section does not apply to a claim based on an  
53 11 event occurring after the effective date of dissolution or a  
53 12 liability that on that date is contingent.  
53 13 Sec. 52. NEW SECTION. 489.704 OTHER CLAIMS AGAINST  
53 14 DISSOLVED LIMITED LIABILITY COMPANY.  
53 15 1. A dissolved limited liability company may publish  
53 16 notice of its dissolution and request persons having claims  
53 17 against the company to present them in accordance with the  
53 18 notice.  
53 19 2. The notice authorized by subsection 1 must do all of  
53 20 the following:  
53 21 a. Be published at least once in a newspaper of general  
53 22 circulation in the county in this state in which the dissolved  
53 23 limited liability company's principal office is located or, if  
53 24 it has none in this state, in the county in which the  
53 25 company's registered office is or was last located.  
53 26 b. Describe the information required to be contained in a  
53 27 claim and provide a mailing address to which the claim is to  
53 28 be sent.  
53 29 c. State that a claim against the company is barred unless  
53 30 an action to enforce the claim is commenced within five years  
53 31 after publication of the notice.  
53 32 3. If a dissolved limited liability company publishes a  
53 33 notice in accordance with subsection 2, unless the claimant  
53 34 commences an action to enforce the claim against the company  
53 35 within five years after the publication date of the notice,

54 1 the claim of each of the following claimants is barred:  
54 2 a. A claimant that did not receive notice in a record  
54 3 under section 489.703.  
54 4 b. A claimant whose claim was timely sent to the company  
54 5 but not acted on.  
54 6 c. A claimant whose claim is contingent at, or based on an  
54 7 event occurring after, the effective date of dissolution.  
54 8 4. A claim not barred under this section may be enforced  
54 9 as follows:  
54 10 a. Against a dissolved limited liability company, to the  
54 11 extent of its undistributed assets.  
54 12 b. If assets of the company have been distributed after  
54 13 dissolution, against a member or transferee to the extent of  
54 14 that person's proportionate share of the claim or of the  
54 15 assets distributed to the member or transferee after  
54 16 dissolution, whichever is less, but a person's total liability  
54 17 for all claims under this paragraph does not exceed the total  
54 18 amount of assets distributed to the person after dissolution.  
54 19 Sec. 53. NEW SECTION. 489.705 ADMINISTRATIVE  
54 20 DISSOLUTION.  
54 21 1. The secretary of state may dissolve a limited liability  
54 22 company administratively if the company does not do any of the  
54 23 following:  
54 24 a. Pay, within sixty days after the due date, any fee,  
54 25 tax, or penalty due to the secretary of state under this  
54 26 chapter or law other than this chapter.  
54 27 b. Deliver, within sixty days after the due date, its  
54 28 biennial report to the secretary of state.  
54 29 2. If the secretary of state determines that a ground  
54 30 exists for administratively dissolving a limited liability  
54 31 company, the secretary of state shall file a record of the  
54 32 determination and serve the company with a copy of the filed  
54 33 record.  
54 34 3. If within sixty days after service of the copy pursuant  
54 35 to subsection 2 a limited liability company does not correct  
55 1 each ground for dissolution or demonstrate to the reasonable  
55 2 satisfaction of the secretary of state that each ground  
55 3 determined by the secretary of state does not exist, the  
55 4 secretary of state shall dissolve the company administratively  
55 5 by preparing, signing, and filing a declaration of dissolution  
55 6 that states the grounds for dissolution. The secretary of  
55 7 state shall serve the company with a copy of the filed  
55 8 declaration.  
55 9 4. A limited liability company that has been  
55 10 administratively dissolved continues in existence but, subject  
55 11 to section 489.706, may carry on only activities necessary to  
55 12 wind up its activities and liquidate its assets under sections  
55 13 489.702 and 489.708 and to notify claimants under sections  
55 14 489.703 and 489.704.  
55 15 5. The administrative dissolution of a limited liability  
55 16 company does not terminate the authority of its registered  
55 17 agent for service of process.  
55 18 Sec. 54. NEW SECTION. 489.706 REINSTATEMENT FOLLOWING  
55 19 ADMINISTRATIVE DISSOLUTION.  
55 20 1. A limited liability company administratively dissolved  
55 21 under section 489.705 may apply to the secretary of state for  
55 22 reinstatement at any time after the effective date of  
55 23 dissolution. The application must be delivered to the  
55 24 secretary of state and meet all of the following requirements:  
55 25 a. Recite the name of the limited liability company at its  
55 26 date of dissolution and the effective date of its  
55 27 administrative dissolution.  
55 28 b. State that the ground or grounds for dissolution as  
55 29 provided in section 489.705 have been eliminated.  
55 30 c. If the application is received more than five years  
55 31 after the effective date of the administrative dissolution,  
55 32 state a name that satisfies the requirements of section  
55 33 489.108.  
55 34 d. State the federal tax identification number of the  
55 35 limited liability company.  
56 1 2. The secretary of state shall refer the federal tax  
56 2 identification number contained in the application for  
56 3 reinstatement to the department of revenue. The department of  
56 4 revenue shall report to the secretary of state the tax status  
56 5 of the limited liability company. If the department reports  
56 6 to the secretary of state that a filing delinquency or  
56 7 liability exists against the limited liability company, the  
56 8 secretary of state shall not cancel the declaration of  
56 9 dissolution until the filing delinquency or liability is  
56 10 satisfied.  
56 11 3. If the secretary of state determines that the



56 12 application contains the information required by subsection 1,  
56 13 and that a delinquency or liability reported pursuant to  
56 14 subsection 2 has been satisfied, and that the information is  
56 15 correct, the secretary of state shall cancel the declaration  
56 16 of dissolution and prepare a certificate of reinstatement that  
56 17 recites the secretary of state's determination and the  
56 18 effective date of reinstatement, file the original of the  
56 19 certificate, and serve a copy on the limited liability company  
56 20 under section 489.116. If the limited liability company's  
56 21 name in subsection 1, paragraph "c", is different than the  
56 22 name in subsection 1, paragraph "a", the certificate of  
56 23 reinstatement shall constitute an amendment to the limited  
56 24 liability company's certificate of organization insofar as it  
56 25 pertains to its name. A limited liability company shall not  
56 26 relinquish the right to retain its name as provided in section  
56 27 489.108, if the reinstatement is effective within five years  
56 28 of the effective date of the limited liability company's  
56 29 dissolution.

56 30 4. When the reinstatement is effective, it relates back to  
56 31 and takes effect as of the effective date of the  
56 32 administrative dissolution as if the administrative  
56 33 dissolution had never occurred.

56 34 Sec. 55. NEW SECTION. 489.707 APPEAL FROM REJECTION OF  
56 35 REINSTATEMENT.

57 1 1. If the secretary of state rejects a limited liability  
57 2 company's application for reinstatement following  
57 3 administrative dissolution, the secretary of state shall  
57 4 prepare, sign, and file a notice that explains the reason for  
57 5 rejection and serve the company with a copy of the notice.

57 6 2. Within thirty days after service of a notice of  
57 7 rejection of reinstatement under subsection 1, a limited  
57 8 liability company may appeal from the rejection by petitioning  
57 9 the district court to set aside the dissolution. The petition  
57 10 must be served on the secretary of state and contain a copy of  
57 11 the secretary of state's declaration of dissolution, the  
57 12 company's application for reinstatement, and the secretary of  
57 13 state's notice of rejection.

57 14 3. The court may order the secretary of state to reinstate  
57 15 a dissolved limited liability company or take other action the  
57 16 court considers appropriate.

57 17 Sec. 56. NEW SECTION. 489.708 DISTRIBUTION OF ASSETS IN  
57 18 WINDING UP LIMITED LIABILITY COMPANY'S ACTIVITIES.

57 19 1. In winding up its activities, a limited liability  
57 20 company must apply its assets to discharge its obligations to  
57 21 creditors, including members that are creditors.

57 22 2. After a limited liability company complies with  
57 23 subsection 1, any surplus must be distributed in the following  
57 24 order, subject to any charging order in effect under section  
57 25 489.503:

57 26 a. To each person owning a transferable interest that  
57 27 reflects contributions made by a member and not previously  
57 28 returned, an amount equal to the value of the unreturned  
57 29 contributions.

57 30 b. In equal shares among members and dissociated members,  
57 31 except to the extent necessary to comply with any transfer  
57 32 effective under section 489.502.

57 33 3. If a limited liability company does not have sufficient  
57 34 surplus to comply with subsection 2, paragraph "a", any  
57 35 surplus must be distributed among the owners of transferable  
58 1 interests in proportion to the value of their respective  
58 2 unreturned contributions.

58 3 4. All distributions made under subsections 2 and 3 must  
58 4 be paid in money.

## 58 5 ARTICLE 8

### 58 6 FOREIGN LIMITED LIABILITY COMPANIES

58 7 Sec. 57. NEW SECTION. 489.801 GOVERNING LAW.

58 8 1. The law of the state or other jurisdiction under which  
58 9 a foreign limited liability company is formed governs all of  
58 10 the following:

58 11 a. The internal affairs of the company.

58 12 b. The liability of a member as member and a manager as  
58 13 manager for the debts, obligations, or other liabilities of  
58 14 the company.

58 15 2. A foreign limited liability company shall not be denied  
58 16 a certificate of authority by reason of any difference between  
58 17 the law of the jurisdiction under which the company is formed  
58 18 and the law of this state.

58 19 3. A certificate of authority does not authorize a foreign  
58 20 limited liability company to engage in any business or  
58 21 exercise any power that a limited liability company shall not  
58 22 engage in or exercise in this state.

58 23 Sec. 58. NEW SECTION. 489.802 APPLICATION FOR  
58 24 CERTIFICATE OF AUTHORITY.

58 25 1. A foreign limited liability company may apply for a  
58 26 certificate of authority to transact business in this state by  
58 27 delivering an application to the secretary of state for  
58 28 filing. The application must state all of the following:

58 29 a. The name of the company and, if the name does not  
58 30 comply with section 489.108, an alternate name adopted  
58 31 pursuant to section 489.805, subsection 1.

58 32 b. The name of the state or other jurisdiction under whose  
58 33 law the company is formed.

58 34 c. The street and mailing addresses of the company's  
58 35 principal office and, if the law of the jurisdiction under  
59 1 which the company is formed require the company to maintain an  
59 2 office in that jurisdiction, the street and mailing addresses  
59 3 of the required office.

59 4 d. The name and street and mailing addresses of the  
59 5 company's initial registered agent for service of process in  
59 6 this state.

59 7 2. A foreign limited liability company shall deliver with  
59 8 a completed application under subsection 1 a certificate of  
59 9 existence or a record of similar import signed by the  
59 10 secretary of state or other official having custody of the  
59 11 company's publicly filed records in the state or other  
59 12 jurisdiction under whose law the company is formed.

59 13 Sec. 59. NEW SECTION. 489.803 ACTIVITIES NOT  
59 14 CONSTITUTING TRANSACTING BUSINESS.

59 15 1. Activities of a foreign limited liability company which  
59 16 do not constitute transacting business in this state within  
59 17 the meaning of this article include all of the following:

59 18 a. Maintaining, defending, or settling an action or  
59 19 proceeding.

59 20 b. Carrying on any activity concerning its internal  
59 21 affairs, including holding meetings of its members or  
59 22 managers.

59 23 c. Maintaining accounts in financial institutions.

59 24 d. Maintaining offices or agencies for the transfer,  
59 25 exchange, and registration of the company's own securities or  
59 26 maintaining trustees or depositories with respect to those  
59 27 securities.

59 28 e. Selling through independent contractors.

59 29 f. Soliciting or obtaining orders, whether by mail or  
59 30 electronic means or through employees or agents or otherwise,  
59 31 if the orders require acceptance outside this state before  
59 32 they become contracts.

59 33 g. Creating or acquiring indebtedness, mortgages, or  
59 34 security interests in real or personal property.

59 35 h. Securing or collecting debts or enforcing mortgages or  
60 1 other security interests in property securing the debts and  
60 2 holding, protecting, or maintaining property so acquired.

60 3 i. Conducting an isolated transaction that is completed  
60 4 within thirty days and is not in the course of similar  
60 5 transactions.

60 6 j. Transacting business in interstate commerce.

60 7 2. For purposes of this article, the ownership in this  
60 8 state of income-producing real property or tangible personal  
60 9 property, other than property excluded under subsection 1,  
60 10 constitutes transacting business in this state.

60 11 3. This section does not apply in determining the contacts  
60 12 or activities that may subject a foreign limited liability  
60 13 company to service of process, taxation, or regulation under  
60 14 law of this state other than this chapter.

60 15 Sec. 60. NEW SECTION. 489.804 FILING OF CERTIFICATE OF  
60 16 AUTHORITY.

60 17 Unless the secretary of state determines that an  
60 18 application for a certificate of authority does not comply  
60 19 with the filing requirements of this chapter, the secretary of  
60 20 state, upon payment of all filing fees, shall file the  
60 21 application of a foreign limited liability company, prepare,  
60 22 sign, and file a certificate of authority to transact business  
60 23 in this state, and send a copy of the filed certificate,  
60 24 together with a receipt for the fees, to the company or its  
60 25 representative.

60 26 Sec. 61. NEW SECTION. 489.805 NONCOMPLYING NAME OF  
60 27 FOREIGN LIMITED LIABILITY COMPANY.

60 28 1. A foreign limited liability company whose name does not  
60 29 comply with section 489.108 shall not obtain a certificate of  
60 30 authority until it adopts, for the purpose of transacting  
60 31 business in this state, an alternate name that complies with  
60 32 section 489.108. After obtaining a certificate of authority  
60 33 with an alternate name, a foreign limited liability company

60 34 shall transact business in this state under the alternate  
60 35 name.

61 1 2. If a foreign limited liability company authorized to  
61 2 transact business in this state changes its name to one that  
61 3 does not comply with section 489.108, it may not thereafter  
61 4 transact business in this state until it complies with  
61 5 subsection 1 and obtains an amended certificate of authority.  
61 6 Sec. 62. NEW SECTION. 489.806 REVOCATION OF CERTIFICATE  
61 7 OF AUTHORITY.

61 8 1. A certificate of authority of a foreign limited  
61 9 liability company to transact business in this state may be  
61 10 revoked by the secretary of state in the manner provided in  
61 11 subsections 2 and 3 if the company does not do any of the  
61 12 following:

61 13 a. Pay, within sixty days after the due date, any fee,  
61 14 tax, or penalty due the secretary of state under this chapter  
61 15 or law other than this chapter.

61 16 b. Deliver, within sixty days after the due date, its  
61 17 biennial report required under section 489.209.

61 18 c. Appoint and maintain a registered agent for service of  
61 19 process as required by section 489.113, subsection 2.

61 20 d. Deliver for filing a statement of a change under  
61 21 section 489.114 within thirty days after a change has occurred  
61 22 in the name or address of the registered agent.

61 23 2. To revoke a certificate of authority of a foreign  
61 24 limited liability company, the secretary of state must  
61 25 prepare, sign, and file a notice of revocation and send a copy  
61 26 to the company's registered agent for service of process in  
61 27 this state, or if the company does not appoint and maintain a  
61 28 proper registered agent in this state, to the company's  
61 29 registered office. The notice must state all of the  
61 30 following:

61 31 a. The revocation's effective date, which must be at least  
61 32 sixty days after the date the secretary of state sends the  
61 33 copy.

61 34 b. The grounds for revocation under subsection 1.

61 35 3. The authority of a foreign limited liability company to  
62 1 transact business in this state ceases on the effective date  
62 2 in the notice of revocation unless before that date the  
62 3 company cures each ground for revocation stated in the notice  
62 4 filed under subsection 2. If the company cures each ground,  
62 5 the secretary of state shall file a record so stating.

62 6 Sec. 63. NEW SECTION. 489.807 CANCELLATION OF  
62 7 CERTIFICATE OF AUTHORITY.

62 8 1. To cancel its certificate of authority to transact  
62 9 business in this state, a foreign limited liability company  
62 10 must deliver to the secretary of state for filing a notice of  
62 11 cancellation stating all of the following:

62 12 a. The name of the foreign limited liability company and  
62 13 that the company desires to cancel its certificate of  
62 14 authority.

62 15 b. That the foreign limited liability company revokes the  
62 16 authority of its registered agent to accept service on its  
62 17 behalf and appoints the secretary of state as its agent for  
62 18 service of process in any proceeding based on a cause of  
62 19 action arising during the time it was authorized to transact  
62 20 business in this state.

62 21 c. A mailing address to which the secretary of state may  
62 22 mail a copy of any process served on the secretary of state  
62 23 under paragraph "b".

62 24 d. A commitment to notify the secretary of state in the  
62 25 future of any change in the mailing address of the foreign  
62 26 limited liability company.

62 27 2. The certificate is canceled when the notice becomes  
62 28 effective.

62 29 Sec. 64. NEW SECTION. 489.808 EFFECT OF FAILURE TO HAVE  
62 30 CERTIFICATE OF AUTHORITY.

62 31 1. A foreign limited liability company transacting  
62 32 business in this state shall not maintain an action or  
62 33 proceeding in this state unless it has a certificate of  
62 34 authority to transact business in this state.

62 35 2. The failure of a foreign limited liability company to  
63 1 have a certificate of authority to transact business in this  
63 2 state does not impair the validity of a contract or act of the  
63 3 company or prevent the company from defending an action or  
63 4 proceeding in this state.

63 5 3. The successor to a foreign limited liability company  
63 6 that transacted business in this state without a certificate  
63 7 of authority and the assignee of a cause of action arising out  
63 8 of that business shall not maintain a proceeding based on that  
63 9 cause of action in any court in this state until the foreign

63 10 limited liability company or its successor obtains a  
63 11 certificate of authority.  
63 12 4. A district court may stay a proceeding commenced by a  
63 13 foreign limited liability company, its successor, or assignee  
63 14 until it determines whether the foreign limited liability  
63 15 company or its successor or assignee requires a certificate of  
63 16 authority. If it so determines, the district court may  
63 17 further stay the proceeding until the foreign limited  
63 18 liability company or its successor or assignee obtains the  
63 19 certificate.

63 20 5. A foreign limited liability company is liable for a  
63 21 civil penalty not to exceed a total of one thousand dollars if  
63 22 it transacts business in this state without a certificate of  
63 23 authority. The attorney general may collect penalties due  
63 24 under this subsection.

63 25 6. A member or manager of a foreign limited liability  
63 26 company is not liable for the debts, obligations, or other  
63 27 liabilities of the company solely because the company  
63 28 transacted business in this state without a certificate of  
63 29 authority.

63 30 7. If a foreign limited liability company transacts  
63 31 business in this state without a certificate of authority or  
63 32 cancels its certificate of authority, it appoints the  
63 33 secretary of state as its registered agent for service of  
63 34 process for rights of action arising out of the transaction of  
63 35 business in this state.

64 1 Sec. 65. NEW SECTION. 489.809 ACTION BY ATTORNEY  
64 2 GENERAL.

64 3 The attorney general may maintain an action to enjoin a  
64 4 foreign limited liability company from transacting business in  
64 5 this state in violation of this article.

64 6 ARTICLE 9

64 7 ACTIONS BY MEMBERS

64 8 Sec. 66. NEW SECTION. 489.901 DIRECT ACTION BY MEMBER.

64 9 1. Subject to subsection 2, a member may maintain a direct  
64 10 action against another member, a manager, or the limited  
64 11 liability company to enforce the member's rights and otherwise  
64 12 protect the member's interests, including rights and interests  
64 13 under the operating agreement or this chapter or arising  
64 14 independently of the membership relationship.

64 15 2. A member maintaining a direct action under this section  
64 16 must plead and prove an actual or threatened injury that is  
64 17 not solely the result of an injury suffered or threatened to  
64 18 be suffered by the limited liability company.

64 19 Sec. 67. NEW SECTION. 489.902 DERIVATIVE ACTION.

64 20 A member may maintain a derivative action to enforce a  
64 21 right of a limited liability company as follows:

64 22 1. The member first makes a demand on the other members in  
64 23 a member-managed limited liability company, or the managers of  
64 24 a manager-managed limited liability company, requesting that  
64 25 they cause the company to bring an action to enforce the  
64 26 right, and the managers or other members do not bring the  
64 27 action within ninety days from the date the demand was made  
64 28 unless the member has earlier been notified that the demand  
64 29 has been rejected by the company or unless irreparable injury  
64 30 to the company would result by waiting for the expiration of  
64 31 the ninety-day period.

64 32 2. A demand under subsection 1 would be futile.

64 33 Sec. 68. NEW SECTION. 489.903 PROPER PLAINTIFF.

64 34 1. Except as otherwise provided in subsection 2, a  
64 35 derivative action under section 489.902 may be maintained only  
65 1 by a person that is a member at the time the action is  
65 2 commenced and remains a member while the action continues.

65 3 2. If the sole plaintiff in a derivative action dies while  
65 4 the action is pending, the court may permit another member of  
65 5 the limited liability company to be substituted as plaintiff.

65 6 Sec. 69. NEW SECTION. 489.904 PLEADING.

65 7 In a derivative action under section 489.902, the complaint  
65 8 must state with particularity any of the following:

65 9 1. The date and content of the plaintiff's demand and the  
65 10 response to the demand by the managers or other members.

65 11 2. If a demand has not been made, the reasons a demand  
65 12 under section 489.902, subsection 1, would be futile.

65 13 Sec. 70. NEW SECTION. 489.906 PROCEEDS AND EXPENSES.

65 14 1. Except as otherwise provided in subsection 2, all of  
65 15 the following apply:

65 16 a. Any proceeds or other benefits of a derivative action  
65 17 under section 489.902, whether by judgment, compromise, or  
65 18 settlement, belong to the limited liability company and not to  
65 19 the plaintiff.

65 20 b. If the plaintiff receives any proceeds, the plaintiff

65 21 shall remit them immediately to the company.  
65 22 2. If a derivative action under section 489.902 is  
65 23 successful in whole or in part, the court may award the  
65 24 plaintiff reasonable expenses, including reasonable attorney  
65 25 fees and costs, from the recovery of the limited liability  
65 26 company.

#### 65 27 ARTICLE 10

#### 65 28 MERGER, CONVERSION, AND DOMESTICATION

#### 65 29 Sec. 71. NEW SECTION. 489.1001 DEFINITIONS.

65 30 As used in this article:

- 65 31 1. "Constituent limited liability company" means a  
65 32 constituent organization that is a limited liability company.
- 65 33 2. "Constituent organization" means an organization that  
65 34 is party to a merger.
- 65 35 3. "Converted organization" means the organization into  
66 1 which a converting organization converts pursuant to sections  
66 2 489.1006 through 489.1009.
- 66 3 4. "Converting limited liability company" means a  
66 4 converting organization that is a limited liability company.
- 66 5 5. "Converting organization" means an organization that  
66 6 converts into another organization pursuant to section  
66 7 489.1006.
- 66 8 6. "Domesticated company" means the company that exists  
66 9 after a domesticating foreign limited liability company or  
66 10 limited liability company effects a domestication pursuant to  
66 11 sections 489.1010 through 489.1013.
- 66 12 7. "Domesticating company" means the company that effects  
66 13 a domestication pursuant to sections 489.1010 through  
66 14 489.1013.
- 66 15 8. "Governing statute" means the statute that governs an  
66 16 organization's internal affairs.
- 66 17 9. "Organization" means a general partnership, including a  
66 18 limited liability partnership, limited partnership, including  
66 19 a limited liability limited partnership, limited liability  
66 20 company, business trust, corporation, or any other person  
66 21 having a governing statute. The term includes a domestic or  
66 22 foreign organization regardless of whether organized for  
66 23 profit.
- 66 24 10. "Organizational documents" means all of the following:
  - 66 25 a. For a domestic or foreign general partnership, its  
66 26 partnership agreement.
  - 66 27 b. For a limited partnership or foreign limited  
66 28 partnership, its certificate of limited partnership and  
66 29 partnership agreement.
  - 66 30 c. For a domestic or foreign limited liability company,  
66 31 its certificate or articles of organization and operating  
66 32 agreement, or comparable records as provided in its governing  
66 33 statute.
  - 66 34 d. For a business trust, its agreement of trust and  
66 35 declaration of trust.
  - 67 1 e. For a domestic or foreign corporation for profit, its  
67 2 articles of incorporation, bylaws, and other agreements among  
67 3 its shareholders which are authorized by its governing  
67 4 statute, or comparable records as provided in its governing  
67 5 statute.
  - 67 6 f. For any other organization, the basic records that  
67 7 create the organization and determine its internal governance  
67 8 and the relations among the persons that own it, have an  
67 9 interest in it, or are members of it.
- 67 10 11. "Personal liability" means liability for a debt,  
67 11 obligation, or other liability of an organization which is  
67 12 imposed on a person that co-owns, has an interest in, or is a  
67 13 member of the organization by any of the following:
  - 67 14 a. The governing statute solely by reason of the person  
67 15 co-owning, having an interest in, or being a member of the  
67 16 organization.
  - 67 17 b. The organization's organizational documents under a  
67 18 provision of the governing statute authorizing those documents  
67 19 to make one or more specified persons liable for all or  
67 20 specified debts, obligations, or other liabilities of the  
67 21 organization solely by reason of the person or persons  
67 22 co-owning, having an interest in, or being a member of the  
67 23 organization.
- 67 24 12. "Surviving organization" means an organization into  
67 25 which one or more other organizations are merged whether the  
67 26 organization preexisted the merger or was created by the  
67 27 merger.

#### 67 28 Sec. 72. NEW SECTION. 489.1002 MERGER.

- 67 29 1. A limited liability company may merge with one or more  
67 30 other constituent organizations pursuant to this section,  
67 31 sections 489.1003 through 489.1005, and a plan of merger, if

all of the following apply:

- a. The governing statute of each of the other organizations authorizes the merger.
- b. The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes.
- c. Each of the other organizations complies with its governing statute in effecting the merger.

2. A plan of merger must be in a record and must include all of the following:
  - a. The name and form of each constituent organization.
  - b. The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect.
  - c. The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration.
  - d. If the surviving organization is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record.
  - e. If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record.

Sec. 73. NEW SECTION. 489.1003 ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED LIABILITY COMPANY.

1. Subject to section 489.1014, a plan of merger must be consented to by all the members of a constituent limited liability company.
2. Subject to section 489.1014 and any contractual rights, after a merger is approved, and at any time before articles of merger are delivered to the secretary of state for filing under section 489.1004, a constituent limited liability company may amend the plan or abandon the merger as follows:
  - a. As provided in the plan.
  - b. Except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

Sec. 74. NEW SECTION. 489.1004 FILINGS REQUIRED FOR MERGER == EFFECTIVE DATE.

1. After each constituent organization has approved a merger, articles of merger must be signed on behalf of all of the following:
  - a. Each constituent limited liability company, as provided in section 489.203, subsection 1.
  - b. Each other constituent organization, as provided in its governing statute.
2. Articles of merger under this section must include all of the following:
  - a. The name and form of each constituent organization and the jurisdiction of its governing statute.
  - b. The name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect.
  - c. The date the merger is effective under the governing statute of the surviving organization.
  - d. If the surviving organization is to be created by the merger as follows:
    - (1) If it will be a limited liability company, the company's certificate of organization.
    - (2) If it will be an organization other than a limited liability company, the organizational document that creates the organization that is in a public record.
  - e. If the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization that are in a public record.
  - f. A statement as to each constituent organization that the merger was approved as required by the organization's governing statute.
  - g. If the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing addresses of an office that the secretary of state may use for the purposes of section 489.1005, subsection 2.
  - h. Any additional information required by the governing statute of any constituent organization.
3. Each constituent limited liability company shall deliver the articles of merger for filing in the office of the secretary of state.
4. A merger becomes effective under this article as

70 8 follows:

70 9 a. If the surviving organization is a limited liability  
70 10 company, upon the later of any of the following:

70 11 (1) Compliance with subsection 3.

70 12 (2) Subject to section 489.205, subsection 3, as specified  
70 13 in the articles of merger.

70 14 b. If the surviving organization is not a limited  
70 15 liability company, as provided by the governing statute of the  
70 16 surviving organization.

70 17 Sec. 75. NEW SECTION. 489.1005 EFFECT OF MERGER.

70 18 1. When a merger becomes effective all of the following  
70 19 apply:

70 20 a. The surviving organization continues or comes into  
70 21 existence.

70 22 b. Each constituent organization that merges into the  
70 23 surviving organization ceases to exist as a separate entity.

70 24 c. All property owned by each constituent organization  
70 25 that ceases to exist vests in the surviving organization.

70 26 d. All debts, obligations, or other liabilities of each  
70 27 constituent organization that ceases to exist continue as  
70 28 debts, obligations, or other liabilities of the surviving  
70 29 organization.

70 30 e. An action or proceeding pending by or against any  
70 31 constituent organization that ceases to exist may be continued  
70 32 as if the merger had not occurred.

70 33 f. Except as prohibited by other law, all of the rights,  
70 34 privileges, immunities, powers, and purposes of each  
70 35 constituent organization that ceases to exist vest in the  
71 1 surviving organization.

71 2 g. Except as otherwise provided in the plan of merger, the  
71 3 terms and conditions of the plan of merger take effect.

71 4 h. Except as otherwise agreed, if a constituent limited  
71 5 liability company ceases to exist, the merger does not  
71 6 dissolve the limited liability company for the purposes of  
71 7 article 7.

71 8 i. If the surviving organization is created by the merger,  
71 9 any of the following applies:

71 10 (1) If it is a limited liability company, the certificate  
71 11 of organization becomes effective.

71 12 (2) If it is an organization other than a limited  
71 13 liability company, the organizational document that creates  
71 14 the organization becomes effective.

71 15 j. If the surviving organization preexisted the merger,  
71 16 any amendments provided for in the articles of merger for the  
71 17 organizational document that created the organization become  
71 18 effective.

71 19 2. A surviving organization that is a foreign organization  
71 20 consents to the jurisdiction of the courts of this state to  
71 21 enforce any debt, obligation, or other liability owed by a  
71 22 constituent organization, if before the merger the constituent  
71 23 organization was subject to suit in this state on the debt,  
71 24 obligation, or other liability. A surviving organization that  
71 25 is a foreign organization and not authorized to transact  
71 26 business in this state appoints the secretary of state as its  
71 27 registered agent for service of process for the purposes of  
71 28 enforcing a debt, obligation, or other liability under this  
71 29 subsection. Service on the secretary of state under this  
71 30 subsection must be made in the same manner and has the same  
71 31 consequences as in section 489.116, subsections 3 and 4.

71 32 Sec. 76. NEW SECTION. 489.1006 CONVERSION.

71 33 1. An organization other than a limited liability company  
71 34 or a foreign limited liability company may convert to a  
71 35 limited liability company, and a limited liability company may  
72 1 convert to an organization other than a foreign limited  
72 2 liability company pursuant to this section, sections 489.1007  
72 3 through 489.1009, and a plan of conversion, if all of the  
72 4 following apply:

72 5 a. The other organization's governing statute authorizes  
72 6 the conversion.

72 7 b. The conversion is not prohibited by the law of the  
72 8 jurisdiction that enacted the other organization's governing  
72 9 statute.

72 10 c. The other organization complies with its governing  
72 11 statute in effecting the conversion.

72 12 2. A plan of conversion must be in a record and must  
72 13 include all of the following:

72 14 a. The name and form of the organization before  
72 15 conversion.

72 16 b. The name and form of the organization after conversion.

72 17 c. The terms and conditions of the conversion, including  
72 18 the manner and basis for converting interests in the

72 19 converting organization into any combination of money,  
72 20 interests in the converted organization, and other  
72 21 consideration.

72 22 d. The organizational documents of the converted  
72 23 organization that are, or are proposed to be, in a record.

72 24 Sec. 77. NEW SECTION. 489.1007 ACTION ON PLAN OF  
72 25 CONVERSION BY CONVERTING LIMITED LIABILITY COMPANY.

72 26 1. Subject to section 489.1014, a plan of conversion must  
72 27 be consented to by all the members of a converting limited  
72 28 liability company.

72 29 2. Subject to section 489.1014 and any contractual rights,  
72 30 after a conversion is approved, and at any time before  
72 31 articles of conversion are delivered to the secretary of state  
72 32 for filing under section 489.1008, a converting limited  
72 33 liability company may amend the plan or abandon the conversion  
72 34 as follows:

72 35 a. As provided in the plan.

73 1 b. Except as otherwise prohibited in the plan, by the same  
73 2 consent as was required to approve the plan.

73 3 Sec. 78. NEW SECTION. 489.1008 FILINGS REQUIRED FOR  
73 4 CONVERSION == EFFECTIVE DATE.

73 5 1. After a plan of conversion is approved, all of the  
73 6 following apply:

73 7 a. A converting limited liability company shall deliver to  
73 8 the secretary of state for filing articles of conversion,  
73 9 which must be signed as provided in section 489.203,  
73 10 subsection 1, and must include all of the following:

73 11 (1) A statement that the limited liability company has  
73 12 been converted into another organization.

73 13 (2) The name and form of the organization and the  
73 14 jurisdiction of its governing statute.

73 15 (3) The date the conversion is effective under the  
73 16 governing statute of the converted organization.

73 17 (4) A statement that the conversion was approved as  
73 18 required by this chapter.

73 19 (5) A statement that the conversion was approved as  
73 20 required by the governing statute of the converted  
73 21 organization.

73 22 (6) All documents required to be filed with the secretary  
73 23 of state in accordance with the governing statute of the  
73 24 converted organization to effectuate the conversion.

73 25 (7) If the converted organization is a foreign  
73 26 organization not authorized to transact business in this  
73 27 state, the street and mailing addresses of an office which the  
73 28 secretary of state may use for the purposes of section  
73 29 489.1009, subsection 3.

73 30 b. If the converting organization is not a converting  
73 31 limited liability company, the converting organization shall  
73 32 deliver to the secretary of state for filing a certificate of  
73 33 organization, which must include, in addition to the  
73 34 information required by section 489.201, subsection 2, all of  
73 35 the following:

74 1 (1) A statement that the converted organization was  
74 2 converted from another organization.

74 3 (2) The name and form of that converting organization and  
74 4 the jurisdiction of its governing statute.

74 5 (3) A statement that the conversion was approved in a  
74 6 manner that complied with the converting organization's  
74 7 governing statute.

74 8 2. A conversion becomes effective as follows:

74 9 a. If the converted organization is a limited liability  
74 10 company, when the certificate of organization takes effect.

74 11 b. If the converted organization is not a limited  
74 12 liability company, as provided by the governing statute of the  
74 13 converted organization.

74 14 Sec. 79. NEW SECTION. 489.1009 EFFECT OF CONVERSION.

74 15 1. An organization that has been converted pursuant to  
74 16 this article is for all purposes the same entity that existed  
74 17 before the conversion.

74 18 2. When a conversion takes effect all of the following  
74 19 apply:

74 20 a. All property owned by the converting organization  
74 21 remains vested in the converted organization.

74 22 b. All debts, obligations, or other liabilities of the  
74 23 converting organization continue as debts, obligations, or  
74 24 other liabilities of the converted organization.

74 25 c. An action or proceeding pending by or against the  
74 26 converting organization may be continued as if the conversion  
74 27 had not occurred.

74 28 d. Except as prohibited by law other than this chapter,  
74 29 all of the rights, privileges, immunities, powers, and



74 30 purposes of the converting organization remain vested in the  
74 31 converted organization.

74 32 e. Except as otherwise provided in the plan of conversion,  
74 33 the terms and conditions of the plan of conversion take  
74 34 effect.

74 35 f. Except as otherwise agreed, the conversion does not  
75 1 dissolve a converting limited liability company for the  
75 2 purposes of article 7.

75 3 3. A converted organization that is a foreign organization  
75 4 consents to the jurisdiction of the courts of this state to  
75 5 enforce any debt, obligation, or other liability for which the  
75 6 converting limited liability company is liable if, before the  
75 7 conversion, the converting limited liability company was  
75 8 subject to suit in this state on the debt, obligation, or  
75 9 other liability. A converted organization that is a foreign  
75 10 organization and not authorized to transact business in this  
75 11 state appoints the secretary of state as its registered agent  
75 12 for service of process for purposes of enforcing a debt,  
75 13 obligation, or other liability under this subsection. Service  
75 14 on the secretary of state under this subsection must be made  
75 15 in the same manner and has the same consequences as in section  
75 16 489.116, subsections 3 and 4.

75 17 Sec. 80. NEW SECTION. 489.1010 DOMESTICATION.

75 18 1. A foreign limited liability company may become a  
75 19 limited liability company pursuant to this section, sections  
75 20 489.1011 through 489.1013, and a plan of domestication, if all  
75 21 of the following apply:

75 22 a. The foreign limited liability company's governing  
75 23 statute authorizes the domestication.

75 24 b. The domestication is not prohibited by the law of the  
75 25 jurisdiction that enacted the governing statute.

75 26 c. The foreign limited liability company complies with its  
75 27 governing statute in effecting the domestication.

75 28 2. A limited liability company may become a foreign  
75 29 limited liability company pursuant to this section, sections  
75 30 489.1011 through 489.1013, and a plan of domestication, if all  
75 31 of the following apply:

75 32 a. The foreign limited liability company's governing  
75 33 statute authorizes the domestication.

75 34 b. The domestication is not prohibited by the law of the  
75 35 jurisdiction that enacted the governing statute.

76 1 c. The foreign limited liability company complies with its  
76 2 governing statute in effecting the domestication.

76 3 3. A plan of domestication must be in a record and must  
76 4 include all of the following:

76 5 a. The name of the domesticating company before  
76 6 domestication and the jurisdiction of its governing statute.

76 7 b. The name of the domesticated company after  
76 8 domestication and the jurisdiction of its governing statute.

76 9 c. The terms and conditions of the domestication,  
76 10 including the manner and basis for converting interests in the  
76 11 domesticating company into any combination of money, interests  
76 12 in the domesticated company, and other consideration.

76 13 d. The organizational documents of the domesticated  
76 14 company that are, or are proposed to be, in a record.

76 15 Sec. 81. NEW SECTION. 489.1011 ACTION ON PLAN OF  
76 16 DOMESTICATION BY DOMESTICATING LIMITED LIABILITY COMPANY.

76 17 1. A plan of domestication must be consented to as  
76 18 follows:

76 19 a. By all the members, subject to section 489.1014, if the  
76 20 domesticating company is a limited liability company.

76 21 b. As provided in the domesticating company's governing  
76 22 statute, if the company is a foreign limited liability  
76 23 company.

76 24 2. Subject to any contractual rights, after a  
76 25 domestication is approved, and at any time before articles of  
76 26 domestication are delivered to the secretary of state for  
76 27 filing under section 489.1012, a domesticating limited  
76 28 liability company may amend the plan or abandon the  
76 29 domestication as follows:

76 30 a. As provided in the plan.

76 31 b. Except as otherwise prohibited in the plan, by the same  
76 32 consent as was required to approve the plan.

76 33 Sec. 82. NEW SECTION. 489.1012 FILINGS REQUIRED FOR  
76 34 DOMESTICATION == EFFECTIVE DATE.

76 35 1. After a plan of domestication is approved, a  
77 1 domesticating company shall deliver to the secretary of state  
77 2 for filing articles of domestication, which must include all  
77 3 of the following:

77 4 a. A statement, as the case may be, that the company has  
77 5 been domesticated from or into another jurisdiction.

77 6 b. The name of the domesticating company and the  
77 7 jurisdiction of its governing statute.  
77 8 c. The name of the domesticated company and the  
77 9 jurisdiction of its governing statute.  
77 10 d. The date the domestication is effective under the  
77 11 governing statute of the domesticated company.  
77 12 e. If the domesticating company was a limited liability  
77 13 company, a statement that the domestication was approved as  
77 14 required by this chapter.  
77 15 f. If the domesticating company was a foreign limited  
77 16 liability company, a statement that the domestication was  
77 17 approved as required by the governing statute of the other  
77 18 jurisdiction.  
77 19 g. If the domesticated company was a foreign limited  
77 20 liability company not authorized to transact business in this  
77 21 state, the street and mailing addresses of an office that the  
77 22 secretary of state may use for the purposes of section  
77 23 489.1013, subsection 2.  
77 24 2. A domestication becomes effective as follows:  
77 25 a. When the certificate of organization takes effect, if  
77 26 the domesticated company is a limited liability company.  
77 27 b. According to the governing statute of the domesticated  
77 28 company, if the domesticated organization is a foreign limited  
77 29 liability company.  
77 30 Sec. 83. NEW SECTION. 489.1013 EFFECT OF DOMESTICATION.  
77 31 1. When a domestication takes effect, all of the following  
77 32 apply:  
77 33 a. The domesticated company is for all purposes the  
77 34 company that existed before the domestication.  
77 35 b. All property owned by the domesticating company remains  
78 1 vested in the domesticated company.  
78 2 c. All debts, obligations, or other liabilities of the  
78 3 domesticating company continue as debts, obligations, or other  
78 4 liabilities of the domesticated company.  
78 5 d. An action or proceeding pending by or against a  
78 6 domesticating company may be continued as if the domestication  
78 7 had not occurred.  
78 8 e. Except as prohibited by other law, all of the rights,  
78 9 privileges, immunities, powers, and purposes of the  
78 10 domesticating company remain vested in the domesticated  
78 11 company.  
78 12 f. Except as otherwise provided in the plan of  
78 13 domestication, the terms and conditions of the plan of  
78 14 domestication take effect.  
78 15 g. Except as otherwise agreed, the domestication does not  
78 16 dissolve a domesticating limited liability company for the  
78 17 purposes of article 7.  
78 18 2. A domesticated company that is a foreign limited  
78 19 liability company consents to the jurisdiction of the courts  
78 20 of this state to enforce any debt, obligation, or other  
78 21 liability owed by the domesticating company, if, before the  
78 22 domestication, the domesticating company was subject to suit  
78 23 in this state on the debt, obligation, or other liability. A  
78 24 domesticated company that is a foreign limited liability  
78 25 company and not authorized to transact business in this state  
78 26 appoints the secretary of state as its registered agent for  
78 27 service of process for purposes of enforcing a debt,  
78 28 obligation, or other liability under this subsection. Service  
78 29 on the secretary of state under this subsection must be made  
78 30 in the same manner and has the same consequences as in section  
78 31 489.116, subsections 3 and 4.  
78 32 3. If a limited liability company has adopted and approved  
78 33 a plan of domestication under section 489.1010 providing for  
78 34 the company to be domesticated in a foreign jurisdiction, a  
78 35 statement surrendering the company's certificate of  
79 1 organization must be delivered to the secretary of state for  
79 2 filing setting forth all of the following:  
79 3 a. The name of the company.  
79 4 b. A statement that the certificate of organization is  
79 5 being surrendered in connection with the domestication of the  
79 6 company in a foreign jurisdiction.  
79 7 c. A statement the domestication was approved as required  
79 8 by this chapter.  
79 9 d. The jurisdiction of formation of the domesticated  
79 10 foreign limited liability company.  
79 11 Sec. 84. NEW SECTION. 489.1014 RESTRICTIONS ON APPROVAL  
79 12 OF MERGERS, CONVERSIONS, AND DOMESTICATIONS.  
79 13 1. If a member of a constituent, converting, or  
79 14 domesticating limited liability company will have personal  
79 15 liability with respect to a surviving, converted, or  
79 16 domesticated organization, approval or amendment of a plan of

79 17 merger, conversion, or domestication is ineffective without  
79 18 the consent of the member, unless all of the following apply:  
79 19 a. The company's operating agreement provides for approval  
79 20 of a merger, conversion, or domestication with the consent of  
79 21 fewer than all the members.  
79 22 b. The member has consented to the provision of the  
79 23 operating agreement.  
79 24 2. A member does not give the consent required by  
79 25 subsection 1 merely by consenting to a provision of the  
79 26 operating agreement that permits the operating agreement to be  
79 27 amended with the consent of fewer than all the members.  
79 28 Sec. 85. NEW SECTION. 489.1015 MERGER OF DOMESTIC  
79 29 COOPERATIVE INTO A DOMESTIC LIMITED LIABILITY COMPANY.  
79 30 1. A limited liability company may merge with a domestic  
79 31 cooperative only as provided by this section. A limited  
79 32 liability company may merge with one or more domestic  
79 33 cooperatives if all of the following apply:  
79 34 a. Only one limited liability company and one or more  
79 35 domestic cooperatives are parties to the merger.  
80 1 b. When the merger becomes effective, the separate  
80 2 existence of each domestic cooperative ceases and the limited  
80 3 liability company is the surviving entity per organization.  
80 4 c. As to each domestic cooperative, the plan of merger is  
80 5 initiated and adopted, and the merger is effectuated, as  
80 6 provided in section 501A.1101.  
80 7 d. As to the limited liability company, the plan of merger  
80 8 complies with section 489.1002, the plan of merger is approved  
80 9 as provided in section 489.1003, and the articles of merger  
80 10 are prepared, signed, and filed as provided in section  
80 11 489.1004.  
80 12 e. Notwithstanding section 489.1002 or 489.1005, the  
80 13 surviving organization must be the limited liability company.  
80 14 2. Section 501A.1103 governs the abandonment by a domestic  
80 15 cooperative of a merger authorized by this section. Section  
80 16 489.1003, subsection 2, governs the abandonment by a limited  
80 17 liability company of a merger authorized by this section.  
80 18 Sec. 86. NEW SECTION. 489.1016 ARTICLE NOT EXCLUSIVE.  
80 19 This article does not preclude an entity from being merged,  
80 20 converted, or domesticated under law other than this chapter.  
80 21 ARTICLE 11  
80 22 PROFESSIONAL LIMITED LIABILITY COMPANIES  
80 23 Sec. 87. NEW SECTION. 489.1101 DEFINITIONS.  
80 24 As used in this article, unless the context otherwise  
80 25 requires:  
80 26 1. "Employee" or "agent" does not include a clerk,  
80 27 stenographer, secretary, bookkeeper, technician, or other  
80 28 person who is not usually and ordinarily considered by custom  
80 29 and practice to be practicing a profession nor any other  
80 30 person who performs all that person's duties for the  
80 31 professional limited liability company under the direct  
80 32 supervision and control of one or more managers, employees, or  
80 33 agents of the professional limited liability company who are  
80 34 duly licensed in this state to practice a profession which the  
80 35 limited liability company is authorized to practice in this  
81 1 state. This article does not require any such persons to be  
81 2 licensed to practice a profession if they are not required to  
81 3 be licensed under any other law of this state.  
81 4 2. "Foreign professional limited liability company" means  
81 5 a limited liability company organized under laws other than  
81 6 the laws of this state for a purpose for which a professional  
81 7 limited liability company may be organized under this article.  
81 8 3. "Licensed" includes registered, certified, admitted to  
81 9 practice, or otherwise legally authorized under the laws of  
81 10 this state.  
81 11 4. "Profession" means the profession of certified public  
81 12 accountancy, architecture, chiropractic, dentistry, physical  
81 13 therapy, psychology, professional engineering, land surveying,  
81 14 landscape architecture, law, medicine and surgery, optometry,  
81 15 osteopathy, osteopathic medicine and surgery, accounting  
81 16 practitioner, podiatry, real estate brokerage, speech  
81 17 pathology, audiology, veterinary medicine, pharmacy, nursing,  
81 18 or marriage and family therapy, provided that the marriage and  
81 19 family therapist is licensed under chapters 147 and 154D.  
81 20 5. "Professional limited liability company" means a  
81 21 limited liability company subject to this article, except a  
81 22 foreign professional limited liability company.  
81 23 6. "Regulating board" means any board, commission, court,  
81 24 or governmental authority which, under the laws of this state,  
81 25 is charged with the licensing, registration, certification,  
81 26 admission to practice, or other legal authorization of the  
81 27 practitioners of any profession.

81 28 7. a. "Voluntary transfer" includes a sale, voluntary  
81 29 assignment, gift, pledge, or encumbrance; a voluntary change  
81 30 of legal or equitable ownership or beneficial interest; or a  
81 31 voluntary change of persons having voting rights with respect  
81 32 to any transferable interest, except as proxies.

81 33 b. "Voluntary transfer" does not include a transfer of an  
81 34 individual's interest in a limited liability company or other  
81 35 property to a guardian or conservator appointed for that  
82 1 individual or the individual's property.

82 2 Sec. 88. NEW SECTION. 489.1102 PURPOSES AND POWERS.

82 3 A professional limited liability company shall be organized  
82 4 only for the purpose of engaging in the practice of one  
82 5 specific profession, or two or more specific professions which  
82 6 could lawfully be practiced in combination by a licensed  
82 7 individual or a partnership of licensed individuals, and for  
82 8 the additional purpose of doing all lawful things which may be  
82 9 incidental to or necessary or convenient in connection with  
82 10 the practice of the profession or professions. The  
82 11 certificate of organization of a professional limited  
82 12 liability company shall state in substance that the purposes  
82 13 for which the professional limited liability company is  
82 14 organized are to engage in the general practice of a specified  
82 15 profession or professions, or one or more specified branches  
82 16 or divisions thereof, and to do all lawful things which may be  
82 17 incidental to or necessary or convenient in connection with  
82 18 the practice of the profession or professions.

82 19 Sec. 89. NEW SECTION. 489.1103 NAME.

82 20 The name of a professional limited liability company, the  
82 21 name of a foreign professional limited liability company or  
82 22 its name as modified for use in this state, and any fictitious  
82 23 name or trade name adopted by a professional limited liability  
82 24 company or foreign professional limited liability company  
82 25 shall contain the words "professional limited liability  
82 26 company" or the abbreviation "P.L.L.C." or "PLLC", and except  
82 27 for the addition of such words or abbreviation, shall be a  
82 28 name which could lawfully be used by a licensed individual or  
82 29 by a partnership of licensed individuals in the practice in  
82 30 this state of a profession which the professional limited  
82 31 liability company is authorized to practice. Each regulating  
82 32 board may by rule adopt additional requirements as to the  
82 33 corporate names and fictitious or trade names of professional  
82 34 limited liability companies and foreign professional limited  
82 35 liability companies which are authorized to practice a  
83 1 profession which is within the jurisdiction of the regulating  
83 2 board.

83 3 Sec. 90. NEW SECTION. 489.1104 WHO MAY ORGANIZE.

83 4 One or more individuals having capacity to contract and  
83 5 licensed to practice a profession in this state in which the  
83 6 professional limited liability company is to be authorized to  
83 7 practice, may organize a professional limited liability  
83 8 company.

83 9 Sec. 91. NEW SECTION. 489.1105 PRACTICE BY PROFESSIONAL  
83 10 LIMITED LIABILITY COMPANY.

83 11 Notwithstanding any other statute or rule of law, a  
83 12 professional limited liability company may practice a  
83 13 profession, but may do so in this state only through a member,  
83 14 manager, employee, or agent, who is licensed to practice the  
83 15 same profession in this state. In its practice of a  
83 16 profession, a professional limited liability company shall not  
83 17 do any act which could not lawfully be done by an individual  
83 18 licensed to practice the profession which the professional  
83 19 limited liability company is authorized to practice.

83 20 Sec. 92. NEW SECTION. 489.1106 PROFESSIONAL REGULATION.

83 21 A professional limited liability company shall not be  
83 22 required to register with or to obtain any license,  
83 23 registration, certificate, or other legal authorization from a  
83 24 regulating board in order to practice a profession. Except as  
83 25 provided in this section, this article does not restrict or  
83 26 limit in any manner the authority or duties of any regulating  
83 27 board with respect to individuals practicing a profession  
83 28 which is within the jurisdiction of the regulating board, even  
83 29 if the individual is a member, manager, employee, or agent of  
83 30 a professional limited liability company or foreign  
83 31 professional limited liability company and practices the  
83 32 individual's profession through such professional limited  
83 33 liability company.

83 34 Sec. 93. NEW SECTION. 489.1107 RELATIONSHIP AND  
83 35 LIABILITY TO PERSONS SERVED.

84 1 This article does not modify any law applicable to the  
84 2 relationship between an individual practicing a profession and  
84 3 a person receiving professional services, including but not

84 4 limited to any liability arising out of such practice or any  
84 5 law respecting privileged communications. This article does  
84 6 not modify or affect the ethical standards or standards of  
84 7 conduct of any profession, including but not limited to any  
84 8 standards prohibiting or limiting the practice of the  
84 9 profession by a limited liability company or prohibiting or  
84 10 limiting the practice of two or more professions in  
84 11 combination. All such standards shall apply to the members,  
84 12 managers, employees, and agents through whom a professional  
84 13 limited liability company practices any profession in this  
84 14 state, to the same extent that the standards apply to an  
84 15 individual practitioner.

84 16 Sec. 94. NEW SECTION. 489.1108 ISSUANCE OF INTERESTS.

84 17 An interest of a professional limited liability company  
84 18 shall be issued only to an individual who is licensed to  
84 19 practice in any state a profession which the professional  
84 20 limited liability company is authorized to practice.  
84 21 Interests of a professional limited liability company shall  
84 22 not at any time be issued in, transferred into, or held in  
84 23 joint tenancy, tenancy in common, or any other form of joint  
84 24 ownership or co-ownership. Chapter 502 shall not be  
84 25 applicable to nor govern any transaction relating to any  
84 26 interests of a professional limited liability company.

84 27 Sec. 95. NEW SECTION. 489.1109 ASSIGNMENT OF INTERESTS.

84 28 A member or other person shall not make a voluntary  
84 29 assignment of an interest in a professional limited liability  
84 30 company to any person, except to the professional limited  
84 31 liability company or to an individual who is licensed to  
84 32 practice in this state a profession which the limited  
84 33 liability company is authorized to practice. The certificate  
84 34 of organization or operating agreement of the professional  
84 35 limited liability company may contain any additional  
85 1 provisions restricting the assignment of interests. Unless  
85 2 the certificate of organization or an operating agreement  
85 3 otherwise provides, a voluntary assignment requires the  
85 4 unanimous consent of the members.

85 5 Sec. 96. NEW SECTION. 489.1110 CONVERTIBLE INTERESTS ==  
85 6 RIGHTS AND OPTIONS.

85 7 A professional limited liability company shall not create  
85 8 or issue any interest convertible into an interest of the  
85 9 professional limited liability company. The provisions of  
85 10 this article with respect to the issuance and transfer of  
85 11 interests apply to the creation, issuance, and transfer of any  
85 12 right or option entitling the holder to purchase from a  
85 13 professional limited liability company any interest of the  
85 14 professional limited liability company. A right or option  
85 15 shall not be transferable, whether voluntarily, involuntarily,  
85 16 by operation of law, or in any other manner. Upon the death  
85 17 of the holder, or when the holder ceases to be licensed to  
85 18 practice a profession in this state which the professional  
85 19 limited liability company is authorized to practice, the right  
85 20 or option shall expire.

85 21 Sec. 97. NEW SECTION. 489.1111 VOTING TRUST == PROXY.

85 22 A member of a professional limited liability company shall  
85 23 not create or enter into a voting trust or any other agreement  
85 24 conferring upon any other person the right to vote or  
85 25 otherwise represent any interests of a professional limited  
85 26 liability company, and no such voting trust or agreement is  
85 27 valid or effective. Any proxy of a member of a professional  
85 28 limited liability company shall be an individual licensed to  
85 29 practice a profession in this state which the professional  
85 30 limited liability company is authorized to practice. Any  
85 31 provision in any proxy instrument denying the right of the  
85 32 member to revoke the proxy at any time or for any period of  
85 33 time is not valid or effective. This section does not  
85 34 otherwise limit the right of a member to vote by proxy, but  
85 35 the certificate of organization or operating agreement of the  
86 1 professional limited liability company may further limit or  
86 2 deny the right to vote by proxy.

86 3 Sec. 98. NEW SECTION. 489.1112 REQUIRED PURCHASE BY  
86 4 PROFESSIONAL LIMITED LIABILITY COMPANY OF ITS OWN INTERESTS.

86 5 1. Notwithstanding any other statute or rule of law, a  
86 6 professional limited liability company shall purchase its own  
86 7 interests as provided in this section; and a member of a  
86 8 professional limited liability company and the member's  
86 9 executor, administrator, legal representative, and successors  
86 10 in interest, shall sell and transfer the interests held by  
86 11 them as provided in this section.

86 12 2. Upon the death of a member, the professional limited  
86 13 liability company shall immediately purchase all interests  
86 14 held by the deceased member.

86 15 3. In order to remain a member of a professional limited  
86 16 liability company, the member shall at all times be licensed  
86 17 to practice in this state a profession which the professional  
86 18 limited liability company is authorized to practice. When a  
86 19 member does not have or ceases to have this qualification, the  
86 20 professional limited liability company shall immediately  
86 21 purchase all interests held by that member.

86 22 4. When a person other than a member of record becomes  
86 23 entitled to have interests of a professional limited liability  
86 24 company transferred into that person's name or to exercise  
86 25 voting rights, except as a proxy, with respect to interests of  
86 26 the professional limited liability company, the professional  
86 27 limited liability company shall immediately purchase the  
86 28 interests. Without limiting the generality of the foregoing,  
86 29 this section shall be applicable whether the event occurs as a  
86 30 result of appointment of a guardian or conservator for a  
86 31 member or the member's property, transfer of interests by  
86 32 operation of law, involuntary transfer of interests, judicial  
86 33 proceeding, execution, levy, bankruptcy proceeding,  
86 34 receivership proceeding, foreclosure or enforcement of a  
86 35 pledge or encumbrance, or any other situation or occurrence.  
87 1 However, this section does not apply to any voluntary transfer  
87 2 of interests as defined in this article.

87 3 5. Interests purchased by a professional limited liability  
87 4 company under this section shall be transferred to the  
87 5 professional limited liability company as of the close of  
87 6 business on the date of the death or other event which  
87 7 requires purchase. The member and the member's executors,  
87 8 administrators, legal representatives, or successors in  
87 9 interest, shall promptly do all things which may be necessary  
87 10 or convenient to cause transfer to be made as of the transfer  
87 11 date. However, the interests shall promptly be transferred on  
87 12 the books and records of the professional limited liability  
87 13 company as of the transfer date, notwithstanding any delay in  
87 14 transferring or surrendering the interests or certificates  
87 15 representing the interests, and the transfer shall be valid  
87 16 and effective for all purposes as of the close of business on  
87 17 the transfer date. The purchase price for such interests  
87 18 shall be paid as provided in this article, but the transfer of  
87 19 interests to the professional limited liability company as  
87 20 provided in this section shall not be delayed or affected by  
87 21 any delay or default in making payment.

87 22 6. Notwithstanding subsections 1 through 5, purchase by  
87 23 the professional limited liability company is not required  
87 24 upon the occurrence of any event other than death of a member,  
87 25 if the professional limited liability company is dissolved  
87 26 within sixty days after the occurrence of the event. The  
87 27 certificate of organization or operating agreement of the  
87 28 professional limited liability company may provide that  
87 29 purchase is not required upon the death of a member, if the  
87 30 professional limited liability company is dissolved within  
87 31 sixty days after the date of the member's death.

87 32 7. Unless otherwise provided in the certificate of  
87 33 organization or an operating agreement of the professional  
87 34 limited liability company or in an agreement among all members  
87 35 of the professional limited liability company, all of the  
88 1 following apply:

88 2 a. The purchase price for interests shall be its book  
88 3 value as of the end of the month immediately preceding the  
88 4 death or other event which requires purchase. Book value  
88 5 shall be determined from the books and records of the  
88 6 professional limited liability company in accordance with the  
88 7 regular method of accounting used by the professional limited  
88 8 liability company, uniformly and consistently applied.  
88 9 Adjustments to book value shall be made, if necessary, to take  
88 10 into account work in process and accounts receivable. A final  
88 11 determination of book value made in good faith by an  
88 12 independent certified public accountant or firm of certified  
88 13 public accountants employed by the professional limited  
88 14 liability company for the purpose shall be conclusive on all  
88 15 persons.

88 16 b. The purchase price shall be paid in cash as follows:

88 17 (1) Upon the death of a member, thirty percent of the  
88 18 purchase price shall be paid within ninety days after death,  
88 19 and the balance shall be paid in three equal annual  
88 20 installments on the first three anniversaries of the death.

88 21 (2) Upon the happening of any other event referred to in  
88 22 this section, one-tenth of the purchase price shall be paid  
88 23 within ninety days after the date of the event, and the  
88 24 balance shall be paid in three equal annual installments on  
88 25 the first three anniversaries of the date of the event.

88 26 c. Interest from the date of death or other event shall be  
88 27 payable annually on principal payment dates, at the rate of  
88 28 six percent per annum on the unpaid balance of the purchase  
88 29 price.

88 30 d. All persons who are members of the professional limited  
88 31 liability company on the date of death or other event, and  
88 32 their executors, administrators, and legal representatives,  
88 33 shall, to the extent the professional limited liability  
88 34 company fails to meet its obligations under this section, be  
88 35 jointly liable for the payment of the purchase price and  
89 1 interest in proportion to their percentage of ownership of the  
89 2 professional limited liability company's interests,  
89 3 disregarding interests of the deceased or withdrawing member.

89 4 e. The part of the purchase price remaining unpaid after  
89 5 the initial payment shall be evidenced by a negotiable  
89 6 promissory note, which shall be executed by the professional  
89 7 limited liability company and all members liable for payment.  
89 8 Any person liable on the note shall have the right to prepay  
89 9 the note in full or in part at any time.

89 10 f. If the person making any payment is not reasonably able  
89 11 to determine which of two or more persons is entitled to  
89 12 receive a payment, or if the payment is payable to a person  
89 13 who is unknown, or who is under disability and there is no  
89 14 person legally competent to receive the payment, or who cannot  
89 15 be found after the exercise of reasonable diligence by the  
89 16 person making the payment, it shall be deposited with the  
89 17 treasurer of state and shall be subject to the provisions of  
89 18 section 490.1440 with respect to funds deposited with the  
89 19 treasurer of state upon the voluntary or involuntary  
89 20 dissolution of a business corporation.

89 21 8. Notwithstanding the other provisions of this section,  
89 22 no part of the purchase price shall be required to be paid  
89 23 until the certificates, if any, representing the interests  
89 24 have been surrendered to the professional limited liability  
89 25 company.

89 26 9. Notwithstanding the other provisions of this section,  
89 27 payment of any part of the purchase price for interests of a  
89 28 deceased member shall not be required until the executor or  
89 29 administrator of the deceased member provides any indemnity,  
89 30 release, or other document from any taxing authority, which is  
89 31 reasonably necessary to protect the professional limited  
89 32 liability company against liability for estate, inheritance,  
89 33 and death taxes.

89 34 10. The certificate of organization or an operating  
89 35 agreement of the professional limited liability company or an  
90 1 agreement among all members of a professional limited  
90 2 liability company may provide for a different purchase price,  
90 3 a different method of determining the purchase price, a  
90 4 different interest rate or no interest, and other terms,  
90 5 conditions, and schedules of payment.

90 6 11. The certificate of organization or an operating  
90 7 agreement of the professional limited liability company or an  
90 8 agreement among all members of a professional limited  
90 9 liability company may provide for the optional or mandatory  
90 10 purchase of its own interests by the professional limited  
90 11 liability company in other situations, subject to any  
90 12 applicable law regarding such a purchase.

90 13 Sec. 99. NEW SECTION. 489.1113 CERTIFICATES REPRESENTING  
90 14 INTERESTS.

90 15 Each certificate representing an interest of a professional  
90 16 limited liability company shall state in substance that the  
90 17 certificate represents an interest in a professional limited  
90 18 liability company and is not transferable except as expressly  
90 19 provided in this article and in the certificate of  
90 20 organization or an operating agreement of the professional  
90 21 limited liability company.

90 22 Sec. 100. NEW SECTION. 489.1114 MANAGEMENT.

90 23 All managers of a professional limited liability company  
90 24 shall at all times be individuals who are licensed to practice  
90 25 a profession in this state which the limited liability company  
90 26 is authorized to practice. A person who is not licensed shall  
90 27 have no authority or duties in the management or control of  
90 28 the professional limited liability company. If a manager  
90 29 ceases to have this qualification, the manager shall  
90 30 immediately and automatically cease to hold such management  
90 31 position.

90 32 Sec. 101. NEW SECTION. 489.1115 MERGER.

90 33 A professional limited liability company shall not merge  
90 34 with any entity except another professional limited liability  
90 35 company subject to this article or a professional corporation  
91 1 subject to chapter 496C. Merger is not permitted unless the

91 2 surviving or new professional limited liability company is a  
91 3 professional limited liability company which complies with all  
91 4 requirements of this article.

91 5 Sec. 102. NEW SECTION. 489.1116 DISSOLUTION OR  
91 6 LIQUIDATION.

91 7 A violation of any provision of this article by a  
91 8 professional limited liability company or any of its members  
91 9 or managers shall be cause for its involuntary dissolution, or  
91 10 liquidation of its assets and business by the district court.  
91 11 Upon the death of the last remaining member of a professional  
91 12 limited liability company, or when the last remaining member  
91 13 is not licensed or ceases to be licensed to practice a  
91 14 profession in this state which the professional limited  
91 15 liability company is authorized to practice, or when any  
91 16 person other than the member of record becomes entitled to  
91 17 have all interests of the last remaining member of the  
91 18 professional limited liability company transferred into that  
91 19 person's name or to exercise voting rights, except as a proxy,  
91 20 with respect to such interests, the professional limited  
91 21 liability company shall not practice any profession and it  
91 22 shall be promptly dissolved. However, if prior to dissolution  
91 23 all outstanding interests of the professional limited  
91 24 liability company are acquired by two or more persons licensed  
91 25 to practice a profession in this state which the professional  
91 26 limited liability company is authorized to practice, the  
91 27 professional limited liability company need not be dissolved  
91 28 and may practice the profession as provided in this article.

91 29 Sec. 103. NEW SECTION. 489.1117 FOREIGN PROFESSIONAL  
91 30 LIMITED LIABILITY COMPANY.

91 31 1. A foreign professional limited liability company may  
91 32 practice a profession in this state if it complies with the  
91 33 provisions of this article. The secretary of state may  
91 34 prescribe forms for this purpose. A foreign professional  
91 35 limited liability company may practice a profession in this  
92 1 state only through members, managers, employees, and agents  
92 2 who are licensed to practice the profession in this state.  
92 3 The provisions of this article with respect to the practice of  
92 4 a profession by a professional limited liability company apply  
92 5 to a foreign professional limited liability company.

92 6 2. This article does not prohibit the practice of a  
92 7 profession in this state by an individual who is a member,  
92 8 manager, employee, or agent of a foreign professional limited  
92 9 liability company, if the individual could lawfully practice  
92 10 the profession in this state in the absence of any  
92 11 relationship to a foreign professional limited liability  
92 12 company. This subsection applies regardless of whether or not  
92 13 the foreign professional limited liability company is  
92 14 authorized to practice a profession in this state.

92 15 Sec. 104. NEW SECTION. 489.1118 LIMITED LIABILITY  
92 16 COMPANIES ORGANIZED UNDER THE OTHER LAWS.

92 17 This article does not apply to or interfere with the  
92 18 practice of any profession by or through any professional  
92 19 limited liability company organized after July 1, 1992, under  
92 20 any other law of this state or any other state or country, if  
92 21 the practice is lawful under any other statute or rule of law  
92 22 of this state. Any such professional limited liability  
92 23 company may voluntarily elect to adopt this article and become  
92 24 subject to its provisions, by amending its certificate of  
92 25 organization to be consistent with all provisions of this  
92 26 article and by stating in its amended certificate of  
92 27 organization that the limited liability company has  
92 28 voluntarily elected to adopt this article. Any limited  
92 29 liability company organized under any law of any other state  
92 30 or country may become subject to the provisions of this  
92 31 article by complying with all provisions of this article with  
92 32 respect to foreign professional limited liability companies.

92 33 Sec. 105. NEW SECTION. 489.1119 CONFLICTS WITH OTHER  
92 34 PROVISIONS OF THIS CHAPTER.

92 35 The provisions of this article shall prevail over any  
93 1 inconsistent provisions of this chapter.

93 2 ARTICLE 12  
93 3 SERIES LIMITED LIABILITY COMPANIES

93 4 Sec. 106. NEW SECTION. 489.1201 SERIES OF TRANSFERABLE  
93 5 INTERESTS.

93 6 1. An operating agreement may establish or provide for the  
93 7 establishment of a designated series of transferable interests  
93 8 having separate rights, powers, or duties with respect to  
93 9 specified property or obligations of the limited liability  
93 10 company or profits and losses associated with specified  
93 11 property or obligations, and, to the extent provided in the  
93 12 operating agreement, any such series may have a separate



93 13 business purpose or investment objective. The name of each  
93 14 series must contain the name of the limited liability company  
93 15 and be distinguishable from the name of any other series set  
93 16 forth in the certificate of organization.

93 17 2. Notwithstanding contrary provisions of this chapter,  
93 18 the debts, liabilities, and obligations incurred, contracted  
93 19 for, or otherwise existing with respect to a particular series  
93 20 shall be enforceable against the assets of that series only,  
93 21 and not against the assets of the limited liability company  
93 22 generally, if all of the following apply:

93 23 a. The operating agreement creates one or more series.

93 24 b. Separate and distinct records are maintained for that  
93 25 series and separate and distinct records account for the  
93 26 assets associated with that series. The assets associated  
93 27 with a series must be accounted for separately from the other  
93 28 assets of the limited liability company, including another  
93 29 series.

93 30 c. The operating agreement provides for such limitation on  
93 31 liabilities.

93 32 d. Notice of the establishment of the series and of the  
93 33 limitation on liabilities of the series is set forth in the  
93 34 certificate of organization of the limited liability company.

93 35 The filing of the certificate of organization containing a  
94 1 notice of the limitation on liabilities of a series in the  
94 2 office of the secretary of state constitutes notice of the  
94 3 limitation on liabilities of such series.

94 4 3. A series meeting all of the conditions of subsection 2,  
94 5 shall be treated as a separate entity to the extent set forth  
94 6 in the certificate of organization.

94 7 4. Notwithstanding section 489.304, or a contrary  
94 8 provision in an operating agreement, a member or manager may  
94 9 agree to be obligated personally for any or all of the debts,  
94 10 obligations, or liabilities of one or more series.

94 11 5. An operating agreement may provide for classes or  
94 12 groups of members or managers associated with a series having  
94 13 such relative rights, powers, and duties as the operating  
94 14 agreement may provide. The operating agreement may provide  
94 15 for the future creation of additional classes or groups of  
94 16 members or managers associated with the series having such  
94 17 relative rights, powers, and duties as may from time to time  
94 18 be established, including rights, powers, and duties senior to  
94 19 existing classes and groups of members or managers associated  
94 20 with the series. An operating agreement may provide for the  
94 21 taking of an action, including the amendment of the operating  
94 22 agreement, without the vote or approval of any member or  
94 23 manager or class or group of members or managers, including  
94 24 all action to create under the provisions of the operating  
94 25 agreement a class or group of the series of membership  
94 26 interests that was not previously outstanding. An operating  
94 27 agreement may provide that any member or class or group of  
94 28 members associated with a series does not have voting rights.

94 29 6. An operating agreement may grant to all or certain  
94 30 identified members or managers or a specified class or group  
94 31 of the members or managers associated with a series the right  
94 32 to vote on any matter separately or with all or any class or  
94 33 group of the members or managers associated with the series.  
94 34 Voting by members or managers associated with a series may be  
94 35 on a per capita, number, financial interest, class, group, or  
95 1 other basis.

95 2 7. Except to the extent modified by this article, the  
95 3 provisions of this chapter which are generally applicable to a  
95 4 limited liability company, and its managers, members and  
95 5 transferees, shall be applicable to each series with respect  
95 6 to the operations of such series.

95 7 Sec. 107. NEW SECTION. 489.1202 MANAGEMENT OF A SERIES.

95 8 1. A series is member-managed unless the operating  
95 9 agreement does any of the following:

95 10 a. Expressly provides any of the following:

95 11 (1) The series is or will be "manager-managed".

95 12 (2) The series is or will be "managed by managers".

95 13 (3) Management of the series is or will be "vested in  
95 14 managers".

95 15 b. Includes words of similar import.

95 16 2. In a member-managed series, unless modified pursuant to  
95 17 section 489.1201, subsections 5 and 6, all of the following  
95 18 rules apply:

95 19 a. The management and conduct of the series are vested in  
95 20 the members of the series.

95 21 b. Each series member has equal rights in the management  
95 22 and conduct of the series' activities.

95 23 c. A difference arising among series members as to a

95 24 matter in the ordinary course of the activities of the series  
95 25 may be decided by a majority of the series members.

95 26 d. An act outside the ordinary course of the activities of  
95 27 the series may be undertaken only with the consent of all  
95 28 members of the series.

95 29 e. The operating agreement may be amended only with the  
95 30 consent of all members of the series.

95 31 3. In a manager-managed series, all of the following rules  
95 32 apply:

95 33 a. Except as otherwise expressly provided in this chapter,  
95 34 any matter relating to the activities of the series is decided  
95 35 exclusively by the managers of the series.

96 1 b. Each series manager has equal rights in the management  
96 2 and conduct of the activities of the series.

96 3 c. A difference arising among managers of a series as to a  
96 4 matter in the ordinary course of the activities of the series  
96 5 may be decided by a majority of the managers of the series.

96 6 d. Unless modified pursuant to section 489.1201,  
96 7 subsections 5 and 6, the consent of all members of the series  
96 8 is required to do any of the following:

96 9 (1) Sell, lease, exchange, or otherwise dispose of all, or  
96 10 substantially all, of the series' property, with or without  
96 11 the goodwill, outside the ordinary course of the series'  
96 12 activities.

96 13 (2) Approve a merger, conversion, or domestication under  
96 14 article 10.

96 15 (3) Undertake any other act outside the ordinary course of  
96 16 the series' activities.

96 17 (4) Amend the operating agreement as it pertains to the  
96 18 series.

96 19 e. A manager of the series may be chosen at any time by  
96 20 the consent of a majority of the members of the series and  
96 21 remains a manager of the series until a successor has been  
96 22 chosen, unless the series manager at an earlier time resigns,  
96 23 is removed, or dies, or, in the case of a series manager that  
96 24 is not an individual, terminates. A series manager may be  
96 25 removed at any time by the consent of a majority of the  
96 26 members without notice or cause.

96 27 f. A person need not be a series member to be a manager of  
96 28 a series, but the dissociation of a series member that is also  
96 29 a series manager removes the person as a manager of the  
96 30 series. If a person that is both a series manager and a  
96 31 series member ceases to be a manager of the series, that  
96 32 cessation does not by itself dissociate the person as a member  
96 33 of the series.

96 34 g. A person's ceasing to be a series manager does not  
96 35 discharge any debt, obligation, or other liability to the  
97 1 series or members of the series which the person incurred  
97 2 while a manager of the series.

97 3 4. An action requiring the consent of members of a series  
97 4 under this chapter may be taken without a meeting, and a  
97 5 member of a series may appoint a proxy or other agent to  
97 6 consent or otherwise act for the series member by signing an  
97 7 appointing record, personally or by the series member's agent.

97 8 5. The dissolution of a series does not affect the  
97 9 applicability of this section. However, a person that  
97 10 wrongfully causes dissolution of the series loses the right to  
97 11 participate in management as a series member and a series  
97 12 manager.

97 13 6. This chapter does not entitle a series member of a  
97 14 series to remuneration for services performed for a  
97 15 member-managed series, except for reasonable compensation for  
97 16 services rendered in winding up the activities of the series.

97 17 Sec. 108. NEW SECTION. 489.1203 SERIES DISTRIBUTIONS.

97 18 1. Any distribution made by a series before its  
97 19 dissolution and winding up must be in equal shares among the  
97 20 series members and dissociated series members, except to the  
97 21 extent necessary to comply with any transfer effective under  
97 22 section 489.502 and any charging order in effect under section  
97 23 489.503.

97 24 2. A person has a right to a distribution before the  
97 25 dissolution and winding up of a series only if the series  
97 26 decides to make an interim distribution. A person's  
97 27 dissociation does not entitle the person to a distribution.

97 28 3. A person does not have a right to demand or receive a  
97 29 distribution from a series in any form other than money.  
97 30 Except as otherwise provided in section 489.708, subsection 3,  
97 31 a series may distribute an asset in kind if each part of the  
97 32 asset is fungible with each other part and each person  
97 33 receives a percentage of the asset equal in value to the  
97 34 person's share of distributions.

97 35 4. If a series member or transferee becomes entitled to  
98 1 receive a distribution, the series member or transferee has  
98 2 the status of, and is entitled to all remedies available to, a  
98 3 creditor of the series with respect to the distribution.

98 4 5. a. A series shall not make a distribution if after the  
98 5 distribution any of the following occurs:  
98 6 (1) The series would not be able to pay its debts as they  
98 7 become due in the ordinary course of the series' activities.  
98 8 (2) The series' total assets would be less than the sum of  
98 9 its total liabilities plus the amount that would be needed, if  
98 10 the series were to be dissolved, wound up, and terminated at  
98 11 the time of the distribution, to satisfy the preferential  
98 12 rights upon dissolution, winding up, and termination of  
98 13 members whose preferential rights are superior to those of  
98 14 persons receiving the distribution.

98 15 b. As used in paragraph "a", "distribution" does not  
98 16 include amounts constituting reasonable compensation for  
98 17 present or past services or reasonable payments made in the  
98 18 ordinary course of business under a bona fide retirement plan  
98 19 or other benefits program.

98 20 6. A series may base a determination that a distribution  
98 21 is not prohibited under subsection 1 on financial statements  
98 22 prepared on the basis of accounting practices and principles  
98 23 that are reasonable in the circumstances or on a fair  
98 24 valuation or other method that is reasonable under the  
98 25 circumstances.

98 26 7. Except as otherwise provided in subsection 9, the  
98 27 effect of a distribution under subsection 1 is measured as  
98 28 follows:  
98 29 a. In the case of a distribution by purchase, redemption,  
98 30 or other acquisition of a transferable interest in the series,  
98 31 as of the date money or other property is transferred or debt  
98 32 incurred by the series.  
98 33 b. In all other cases, as of the date when one of the  
98 34 following occurs:  
98 35 (1) The distribution is authorized, if the payment occurs  
99 1 within one hundred twenty days after that date.  
99 2 (2) The payment is made, if the payment occurs more than  
99 3 one hundred twenty days after the distribution is authorized.

99 4 8. A series' indebtedness to a series member incurred by  
99 5 reason of a distribution made in accordance with this section  
99 6 is at parity with the series' indebtedness to its general,  
99 7 unsecured creditors.

99 8 9. A series' indebtedness, including indebtedness issued  
99 9 in connection with or as part of a distribution, is not a  
99 10 liability for purposes of subsection 5 if the terms of the  
99 11 indebtedness provide that payment of principal and interest  
99 12 are made only to the extent that a distribution could be made  
99 13 to members of the series under this section. If such  
99 14 indebtedness is issued as a distribution, each payment of  
99 15 principal or interest on the indebtedness is treated as a  
99 16 distribution, the effect of which is measured on the date the  
99 17 payment is made.

99 18 10. a. Except as otherwise provided in paragraph "b", if  
99 19 a member of a member-managed series or manager of a  
99 20 manager-managed series consents to a distribution made in  
99 21 violation of this section and in consenting to the  
99 22 distribution fails to comply with section 489.409, the member  
99 23 or manager is personally liable to the series for the amount  
99 24 of the distribution that exceeds the amount that could have  
99 25 been distributed without the violation of section 489.405.

99 26 b. To the extent the operating agreement of a  
99 27 member-managed series expressly relieves a series member of  
99 28 the authority and responsibility to consent to distributions  
99 29 and imposes that authority and responsibility on one or more  
99 30 other members of the series, the liability stated in paragraph  
99 31 "a" applies to the other members of the series and not the  
99 32 member of the series that the operating agreement relieves of  
99 33 authority and responsibility.

99 34 11. A person that receives a distribution knowing that the  
99 35 distribution to that person was made in violation of section  
100 1 489.405 is personally liable to the limited liability company  
100 2 but only to the extent that the distribution received by the  
100 3 person exceeded the amount that could have been properly paid  
100 4 under section 489.405.

100 5 12. A person against which an action is commenced because  
100 6 the person is liable under subsection 10 may do any of the  
100 7 following:  
100 8 a. Implead any other person that is subject to liability  
100 9 under subsection 10 and seek to compel contribution from the  
100 10 person.

100 11 b. Implead any person that received a distribution in  
100 12 violation of subsection 11 and seek to compel contribution  
100 13 from the person in the amount the person received in violation  
100 14 of that subsection.

100 15 13. An action under this section is barred if not  
100 16 commenced within two years after the distribution.

100 17 Sec. 109. NEW SECTION. 489.1204 DISSOCIATION FROM A  
100 18 SERIES.

100 19 Unless otherwise provided in the operating agreement, a  
100 20 member shall cease to be associated with a series and to have  
100 21 the power to exercise any rights or powers of a member with  
100 22 respect to such series upon the assignment of all of the  
100 23 member's transferable interest with respect to such series.  
100 24 Except as otherwise provided in an operating agreement, an  
100 25 event under this chapter or identified in an operating  
100 26 agreement that causes a member to cease to be associated with  
100 27 a series, by itself, shall not cause such member to cease to  
100 28 be associated with any other series or terminate the continued  
100 29 membership of a member in the limited liability company.

100 30 Sec. 110. NEW SECTION. 489.1205 TERMINATION OF A SERIES.

100 31 1. Except to the extent otherwise provided in the  
100 32 operating agreement, a series may be terminated and its  
100 33 affairs wound up without causing the dissolution of the  
100 34 limited liability company. The termination of a series  
100 35 established pursuant to section 489.1201, subsection 1, shall  
101 1 not affect the limitation on a liability of such series  
101 2 provided by section 489.1201, subsection 2. A series is not  
101 3 terminated and its affairs shall continue despite the  
101 4 dissolution of the limited liability company under article 7  
101 5 but the series shall be terminated and its affairs shall be  
101 6 wound up upon the first to occur of any of the events  
101 7 described in section 489.701, subsection 1, paragraphs "a"  
101 8 through "e", as applied to the series.

101 9 2. Notwithstanding section 489.702, unless otherwise  
101 10 provided in the operating agreement, any of the following  
101 11 persons may wind up the affairs of a series:

101 12 a. A manager associated with a series who has not  
101 13 wrongfully terminated the series.

101 14 b. If there is no manager of a series, the members  
101 15 associated with the series or a person approved by the members  
101 16 associated with the series.

101 17 c. If there is more than one class or group of members  
101 18 associated with the series, then by each class or group of  
101 19 members associated with the series, in either case, by members  
101 20 who own more than fifty percent of the transferable interests  
101 21 of the series owned by all of the members associated with the  
101 22 series or by the members of each class or group associated  
101 23 with the series.

101 24 3. The persons winding up the affairs of a series, in the  
101 25 name of the series and for and on behalf of the series, may  
101 26 take all actions with respect to the series as are permitted  
101 27 under section 489.702 for a limited liability company. The  
101 28 persons winding up the affairs of a series shall provide for  
101 29 the claims and obligations of the series as provided in  
101 30 section 489.708 for a limited liability company and distribute  
101 31 the assets of the series as provided in section 489.708 for a  
101 32 limited liability company. An action taken pursuant to this  
101 33 subsection shall not affect the liability of a member and  
101 34 shall not impose liability on a liquidating trustee.

101 35 Sec. 111. NEW SECTION. 489.1206 FOREIGN SERIES.

102 1 A foreign limited liability company that is authorized to  
102 2 do business in this state under article 8 which is governed by  
102 3 an operating agreement that establishes or provides for the  
102 4 establishment of designated series of transferable interests  
102 5 having separate rights, powers, or duties with respect to  
102 6 specified property or obligations of the foreign limited  
102 7 liability company, or profits and losses associated with the  
102 8 specified property or obligations, shall indicate that fact on  
102 9 the application for a certificate of authority as a foreign  
102 10 limited liability company. In addition, the foreign limited  
102 11 liability company shall state on the application whether the  
102 12 debts, liabilities, and obligations incurred, contracted for,  
102 13 or otherwise existing with respect to a particular series, if  
102 14 any, are enforceable against the assets of such series only,  
102 15 and not against the assets of the foreign limited liability  
102 16 company generally.

#### 102 17 ARTICLE 13

#### 102 18 MISCELLANEOUS PROVISIONS

102 19 Sec. 112. NEW SECTION. 489.1301 UNIFORMITY OF  
102 20 APPLICATION AND CONSTRUCTION.

102 21 In applying and construing this chapter, consideration must

102 22 be given to the need to promote uniformity of the law with  
102 23 respect to its subject matter among states that enact it.  
102 24 Sec. 113. NEW SECTION. 489.1302 RELATION TO ELECTRONIC  
102 25 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.  
102 26 This chapter modifies, limits, and supersedes the federal  
102 27 Electronic Signatures in Global and National Commerce Act, 15  
102 28 U.S.C. } 7001 et seq., but does not modify, limit, or  
102 29 supersede section 101(c) of that Act, 15 U.S.C. } 7001(c), or  
102 30 authorize electronic delivery of any of the notices described  
102 31 in section 103(b) of that Act, 15 U.S.C. } 7003(b).  
102 32 Sec. 114. NEW SECTION. 489.1303 SAVINGS CLAUSE.  
102 33 This chapter does not affect an action commenced,  
102 34 proceeding brought, or right accrued before this chapter takes  
102 35 effect.

103 1 Sec. 115. NEW SECTION. 489.1304 APPLICATION TO EXISTING  
103 2 RELATIONSHIPS.  
103 3 1. Before January 1, 2011, this chapter governs all of the  
103 4 following:  
103 5 a. A limited liability company formed on or after January  
103 6 1, 2009.  
103 7 b. Except as otherwise provided in subsection 3, a limited  
103 8 liability company formed before January 1, 2009, which elects,  
103 9 in the manner provided in its operating agreement or by law  
103 10 for amending the operating agreement, to be subject to this  
103 11 chapter.  
103 12 2. Except as otherwise provided in subsection 3, on and  
103 13 after January 1, 2011, this chapter governs all limited  
103 14 liability companies.  
103 15 3. For the purposes of applying this chapter to a limited  
103 16 liability company formed before January 1, 2009, all of the  
103 17 following apply:  
103 18 a. The limited liability company's articles of  
103 19 organization are deemed to be the company's certificate of  
103 20 organization.  
103 21 b. For the purposes of applying section 489.102,  
103 22 subsection 12, and subject to section 489.112, subsection 4,  
103 23 language in the limited liability company's articles of  
103 24 organization designating the limited liability company's  
103 25 management structure operates as if that language were in the  
103 26 operating agreement.

## 103 27 DIVISION II

### 103 28 CONVERSION FOR CORPORATIONS AND OTHER ENTITIES

103 29 Sec. 116. Section 490.122, subsection 1, paragraph 1, Code  
103 30 Supplement 2007, is amended to read as follows:

103 31 1. Articles of merger, ~~or~~ share exchange, ~~or~~  
103 32 conversion ..... \$ 50

103 33 Sec. 117. Section 490.1101, Code 2007, is amended by  
103 34 adding the following new subsections:

103 35 NEW SUBSECTION. 0A. "Converted entity" means a  
104 1 corporation or other entity into which a converting entity  
104 2 converts pursuant to sections 490.1111 through 490.1114.

104 3 NEW SUBSECTION. 0B. "Converting entity" means a  
104 4 corporation or other entity that converts into an other entity  
104 5 or corporation pursuant to section 490.1101.

104 6 NEW SUBSECTION. 0C. "Governing statute" of a corporation  
104 7 or other entity means the statute that governs the corporation  
104 8 or other entity's internal affairs.

104 9 Sec. 118. NEW SECTION. 490.1111 CONVERSION.

104 10 1. An other entity may convert to a domestic corporation,  
104 11 and a domestic corporation may convert to an other entity  
104 12 pursuant to this section and sections 490.1112 through  
104 13 490.1114 and a plan of conversion, if all of the following  
104 14 apply:

104 15 a. The other entity's governing statute authorizes the  
104 16 conversion.

104 17 b. The conversion is not prohibited by the law of the  
104 18 jurisdiction that enacted the governing statute.

104 19 c. The other entity complies with its governing statute in  
104 20 effecting the conversion.

104 21 2. A plan of conversion must be in a record and must  
104 22 include all of the following:

104 23 a. The name and form of the converting entity before  
104 24 conversion.

104 25 b. The name and form of the converted entity after  
104 26 conversion.

104 27 c. The terms and conditions of the conversion, including  
104 28 the manner and basis for converting interests in the  
104 29 converting entity into any combination of money, interests in  
104 30 the converted entity, and other consideration.

104 31 d. The organizational documents or articles of  
104 32 incorporation and bylaws of the converted entity.

104 33 Sec. 119. NEW SECTION. 490.1112 ACTION ON PLAN OF  
104 34 CONVERSION BY CONVERTING DOMESTIC CORPORATION.  
104 35 1. In the case of a domestic corporation that is being  
105 1 converted into an other entity all of the following apply:  
105 2 a. The plan of conversion must be adopted by the domestic  
105 3 corporation's board of directors.  
105 4 b. After adopting the plan of conversion, the domestic  
105 5 corporation's board of directors must submit the plan to the  
105 6 domestic corporation's shareholders for their approval. The  
105 7 board of directors must also transmit to the shareholders a  
105 8 recommendation that the shareholders approve the plan, unless  
105 9 the board of directors makes a determination that because of  
105 10 conflicts of interest or other special circumstances it should  
105 11 not make such a recommendation, in which case the board of  
105 12 directors must transmit to the shareholders the basis for that  
105 13 determination.  
105 14 c. The domestic corporation must notify each shareholder  
105 15 of the domestic corporation, whether or not entitled to vote,  
105 16 of the meeting of shareholders at which the plan is to be  
105 17 submitted for approval. The notice must state that the  
105 18 purpose, or one of the purposes, of the meeting is to consider  
105 19 the plan of conversion and must contain or be accompanied by a  
105 20 copy or summary of the plan of conversion. The notice shall  
105 21 include or be accompanied by a copy of the organic documents  
105 22 as they will be in effect immediately after the conversion.  
105 23 d. The domestic corporation's board of directors may  
105 24 condition its submission of the plan of conversion to the  
105 25 domestic corporation's shareholders on any basis.  
105 26 e. Unless the articles of incorporation, bylaws, or the  
105 27 board of directors of the domestic corporation require a  
105 28 greater vote or a greater number of votes to be present, the  
105 29 approval of the plan of conversion shall require the approval  
105 30 of the domestic corporation's shareholders at a meeting at  
105 31 which a quorum consisting of at least a majority of the votes  
105 32 entitled to be cast on the plan exists, and, if any classes or  
105 33 series of shares is entitled to vote as a separate group on  
105 34 the plan of conversion, the approval of each such separate  
105 35 voting group at a meeting at which a quorum of the voting  
106 1 group consisting of at least a majority of the votes entitled  
106 2 to be cast on the conversion by that voting group is present.  
106 3 f. If any provision of the articles of incorporation,  
106 4 bylaws or an agreement of the domestic corporation to which  
106 5 any of the directors or shareholders of the domestic  
106 6 corporation are parties, adopted or entered into before the  
106 7 effective date of this section, applies to a merger of the  
106 8 corporation and the document does not refer to a conversion of  
106 9 the corporation, the provision shall be deemed to apply to a  
106 10 conversion of the corporation until such provision is  
106 11 subsequently amended.  
106 12 g. If as a result of the conversion as provided in this  
106 13 subsection, one or more shareholders of the domestic  
106 14 corporation would become subject to owner liability for the  
106 15 debts, obligations, or liabilities of any other person or  
106 16 entity, approval of the plan of conversion shall require the  
106 17 execution, by each such shareholder of the domestic  
106 18 corporation, of a separate written consent to become so  
106 19 subject to such owner liability.  
106 20 2. After a conversion is approved as provided in  
106 21 subsection 1, and at any time before a filing is made under  
106 22 section 490.1113, a domestic corporation that is being  
106 23 converted may amend its plan of conversion or abandon the  
106 24 planned conversion as follows:  
106 25 a. As provided in the plan of conversion.  
106 26 b. Except as prohibited by the plan of conversion, by the  
106 27 same consent as was required to approve the plan of  
106 28 conversion.  
106 29 Sec. 120. NEW SECTION. 490.1113 FILINGS REQUIRED FOR  
106 30 CONVERSION == EFFECTIVE DATE.  
106 31 1. After a plan of conversion is approved, all of the  
106 32 following apply:  
106 33 a. A domestic corporation that is being converted into an  
106 34 other entity shall deliver to the secretary of state for  
106 35 filing articles of conversion, which must include all of the  
107 1 following:  
107 2 (1) A statement that the domestic corporation has been  
107 3 converted into an other entity.  
107 4 (2) The name and form of the other entity and the  
107 5 jurisdiction of its governing statute.  
107 6 (3) The date the conversion is effective under the  
107 7 governing statute of the converted entity.  
107 8 (4) A statement that the conversion was approved as

107 9 required by this chapter.

107 10 (5) A statement that the conversion was approved as  
107 11 required by the governing statute of the converted entity.

107 12 (6) If the converted entity is a foreign other entity not  
107 13 authorized to transact business in this state, the street and  
107 14 mailing address of an office which the secretary of state may  
107 15 use for the purposes of section 490.1114, subsection 3.

107 16 b. If the converting entity is not a converting domestic  
107 17 corporation, the converting entity shall deliver to the  
107 18 secretary of state for filing articles of incorporation, which  
107 19 must include, in addition to the information required by  
107 20 section 490.202, all of the following:

107 21 (1) A statement that the domestic corporation was  
107 22 converted from an other entity.

107 23 (2) The name and form of the other entity and the  
107 24 jurisdiction of its governing statute.

107 25 (3) A statement that the conversion was approved in a  
107 26 manner that complied with the other entity's governing  
107 27 statute.

107 28 2. A conversion becomes effective according to the  
107 29 following:

107 30 a. If the converted entity is a domestic corporation, when  
107 31 the articles of incorporation are filed.

107 32 b. If the converted entity is not a domestic corporation,  
107 33 as provided by the governing statute of the converted other  
107 34 entity.

107 35 Sec. 121. NEW SECTION. 490.1114 EFFECT OF CONVERSION.

108 1 1. A domestic corporation or other entity that has been  
108 2 converted pursuant to this article is for all purposes the  
108 3 same domestic corporation or other entity that existed before  
108 4 the conversion.

108 5 2. When a conversion takes effect, all of the following  
108 6 apply:

108 7 a. All property owned by the converting entity remains  
108 8 vested in the converted entity.

108 9 b. All debts, liabilities, and other obligations of the  
108 10 converting entity continue as obligations of the converted  
108 11 entity.

108 12 c. An action or proceeding pending by or against the  
108 13 converting entity may be continued as if the conversion had  
108 14 not occurred.

108 15 d. The shares or interests of the converting entity are  
108 16 reclassified into shares, interests, other securities,  
108 17 obligations, rights to acquire shares, interests or other  
108 18 securities, or into cash or other property in accordance with  
108 19 the plan of conversion; and the shareholders or interest  
108 20 holders of the converting entity are entitled only to the  
108 21 rights provided to them under the terms of the conversion and  
108 22 to any appraisal rights they may have under the organic law of  
108 23 the converting entity.

108 24 e. Except as prohibited by other law, all of the rights,  
108 25 privileges, immunities, powers, and purposes of the converting  
108 26 entity remain vested in the converted entity.

108 27 f. Except as otherwise provided in the plan of conversion,  
108 28 the terms and conditions of the plan of conversion take  
108 29 effect.

108 30 g. Except as otherwise agreed, the conversion does not  
108 31 dissolve a converting domestic corporation for the purposes of  
108 32 division XIV.

108 33 3. A converted entity that is a foreign other entity  
108 34 consents to the jurisdiction of the courts of this state to  
108 35 enforce any obligation owed by the converting corporation, if  
109 1 before the conversion the converting corporation was subject  
109 2 to suit in this state on the obligation. A converted other  
109 3 entity that is a foreign other entity and not authorized to  
109 4 transact business in this state appoints the secretary of  
109 5 state as its agent for service of process for purposes of  
109 6 enforcing an obligation under this subsection. Service on the  
109 7 secretary of state under this subsection is made in the same  
109 8 manner and with the same consequences as in section 490.504.

109 9 Sec. 122. Section 490.1302, subsection 1, Code 2007, is  
109 10 amended by adding the following new paragraph:

109 11 NEW PARAGRAPH. f. Consummation of a conversion of the  
109 12 corporation to an other entity pursuant to sections 490.1111  
109 13 through 490.1114.

109 14 DIVISION III  
109 15 CONFORMING AMENDMENTS

109 16 Sec. 123. Section 9H.1, subsection 16, Code 2007, is  
109 17 amended to read as follows:

109 18 16. "Limited liability company" means a limited liability  
109 19 company as defined in section 489.102 or 490A.102.

109 20 Sec. 124. Section 9H.4, subsection 8, Code 2007, is  
109 21 amended to read as follows:  
109 22 8. A corporation or its subsidiary organized under chapter  
109 23 490 or a limited liability company organized under chapter 489  
109 24 or 490A and to which section 312.8 is applicable.  
109 25 Sec. 125. Section 10.1, subsection 9, Code 2007, is  
109 26 amended to read as follows:  
109 27 9. "Farmers cooperative limited liability company" means a  
109 28 limited liability company organized under chapter 489 or 490A,  
109 29 if cooperative associations hold one hundred percent of all  
109 30 membership interests in the limited liability company.  
109 31 Farmers cooperative associations must hold at least seventy  
109 32 percent of all membership interests in the limited liability  
109 33 company. If more than one type of membership interest is  
109 34 established, including any series as provided in section  
109 35 489.1201 or 490A.305 or any class or group as provided in  
110 1 section 489.1201 or 490A.307, farmers cooperative associations  
110 2 must hold at least seventy percent of all membership interests  
110 3 of that type.  
110 4 Sec. 126. Section 10.1, subsection 17, Code 2007, is  
110 5 amended to read as follows:  
110 6 17. "Networking farmers limited liability company" means a  
110 7 limited liability company, other than a family farm limited  
110 8 liability company as defined in section 9H.1, organized under  
110 9 chapter 489 or 490A if all of the following conditions are  
110 10 satisfied:  
110 11 a. Qualified farmers must hold at least fifty-one percent  
110 12 of all membership interests in the limited liability company.  
110 13 If more than one type of membership interest is established,  
110 14 including any series as provided in section 489.1201 or  
110 15 490A.305 or any class or group as provided in section 489.1201  
110 16 or 490A.307, qualified farmers must hold at least fifty-one  
110 17 percent of all membership interests of that type.  
110 18 b. Qualified persons must hold at least seventy percent of  
110 19 all membership interests in the limited liability company. If  
110 20 more than one type of membership interest is established,  
110 21 including any series as provided in section 489.1201 or  
110 22 490A.305 or any class or group as provided in section 489.1201  
110 23 or 490A.307, qualified persons must hold at least seventy  
110 24 percent of all membership interests of that type.  
110 25 Sec. 127. Section 10.10, subsection 1, paragraph c, Code  
110 26 2007, is amended to read as follows:  
110 27 c. Less than fifty percent of the interest in the farmers  
110 28 cooperative limited liability company is held by members which  
110 29 are parties to intra-company loan agreements. If more than  
110 30 one type of membership interest is established, including any  
110 31 series as provided in section 489.1201 or 490A.305 or any  
110 32 class or group as provided in section 489.1201 or 490A.307,  
110 33 less than fifty percent of the interest in each type of  
110 34 membership shall be held by members which are parties to  
110 35 intra-company loan agreements.  
111 1 Sec. 128. Section 10B.1, subsection 7, Code 2007, is  
111 2 amended to read as follows:  
111 3 7. "Limited liability company" means a foreign or domestic  
111 4 limited liability company, including a limited liability  
111 5 company as defined in section 489.102 or 490A.102.  
111 6 Sec. 129. Section 10B.4, subsection 1, Code 2007, is  
111 7 amended to read as follows:  
111 8 1. A biennial report shall be filed by a reporting entity  
111 9 with the secretary of state on or before March 31 of each  
111 10 odd-numbered year as required by rules adopted by the  
111 11 secretary of state pursuant to chapter 17A. However, a  
111 12 reporting entity required to file a biennial report pursuant  
111 13 to chapter 489 or 490A, 490, ~~490A~~, 496C, 497, 498, 499, 501,  
111 14 501A, or 504 shall file the report required by this section in  
111 15 the same year as required by that chapter. The reporting  
111 16 entity may file the report required by this section together  
111 17 with the biennial report required to be filed by one of the  
111 18 other chapters referred to in this subsection. The reports  
111 19 shall be filed on forms prepared and supplied by the secretary  
111 20 of state. The secretary of state may provide for combining  
111 21 its reporting forms with other biennial reporting forms  
111 22 required to be used by the reporting entities.  
111 23 Sec. 130. Section 10B.7, unnumbered paragraph 1, Code  
111 24 Supplement 2007, is amended to read as follows:  
111 25 Lessees of agricultural land under section 9H.4, subsection  
111 26 2, paragraph "c", for research or experimental purposes, shall  
111 27 file a biennial report with the secretary of state on or  
111 28 before March 31 of each odd-numbered year on forms adopted  
111 29 pursuant to chapter 17A and supplied by the secretary of  
111 30 state. However, a lessee required to file a biennial report



111 31 pursuant to chapter 489 or 490A, 490, ~~490A~~, 496C, 497, 498,  
111 32 499, 501, 501A, or 504 shall file the report required by this  
111 33 section in the same year as required by that chapter. The  
111 34 lessee may file the report required by this section together  
111 35 with the biennial report required to be filed by one of the  
112 1 other chapters referred to in this paragraph. The report  
112 2 shall contain the following information for the reporting  
112 3 period:  
112 4 Sec. 131. Section 10C.1, subsection 11, Code 2007, is  
112 5 amended to read as follows:  
112 6 11. "Limited liability company" means a limited liability  
112 7 company as defined in section 489.102 or 490A.102.  
112 8 Sec. 132. Section 10D.1, subsection 3, Code 2007, is  
112 9 amended to read as follows:  
112 10 3. "Qualified enterprise" or "enterprise" means a limited  
112 11 liability company as defined in section 489.102 or 490A.102, a  
112 12 domestic or foreign corporation subject to chapter 490, a  
112 13 nonprofit corporation organized under chapter 504, a limited  
112 14 liability company as defined in section 490A.102, a  
112 15 cooperative association as defined in section 10.1, or a  
112 16 foreign business as defined in section 9I.1.  
112 17 Sec. 133. Section 203.1, subsection 10, paragraph j,  
112 18 unnumbered paragraph 1, Code Supplement 2007, is amended to  
112 19 read as follows:  
112 20 A limited liability company as defined in section 489.102  
112 21 or 490A.102 that meets all of the following requirements:  
112 22 Sec. 134. Section 421.26, Code Supplement 2007, is amended  
112 23 to read as follows:  
112 24 421.26 PERSONAL LIABILITY FOR TAX DUE.  
112 25 If a licensee or other person under section 452A.65, a  
112 26 retailer or purchaser under chapter 423A, 423B, or 423E, or  
112 27 section 423.31 or 423.33, or a retailer or purchaser under  
112 28 section 423.32, a user under section 423.34, or a permit  
112 29 holder or licensee under section 453A.13, 453A.16, or 453A.44  
112 30 fails to pay a tax under those sections when due, an officer  
112 31 of a corporation or association, notwithstanding ~~sections~~  
112 32 section 489.304 or sections 490A.601 and 490A.602, a member or  
112 33 manager of a limited liability company, or a partner of a  
112 34 partnership, having control or supervision of or the authority  
112 35 for remitting the tax payments and having a substantial legal  
113 1 or equitable interest in the ownership of the corporation,  
113 2 association, limited liability company, or partnership, who  
113 3 has intentionally failed to pay the tax is personally liable  
113 4 for the payment of the tax, interest, and penalty due and  
113 5 unpaid. However, this section shall not apply to taxes on  
113 6 accounts receivable. The dissolution of a corporation,  
113 7 association, limited liability company, or partnership shall  
113 8 not discharge a person's liability for failure to remit the  
113 9 tax due.  
113 10 Sec. 135. Section 422.16, subsection 4, Code Supplement  
113 11 2007, is amended to read as follows:  
113 12 4. Every withholding agent who fails to withhold or pay to  
113 13 the department any sums required by this chapter to be  
113 14 withheld and paid, shall be personally, individually, and  
113 15 corporately liable therefor to the state of Iowa, and any sum  
113 16 or sums withheld in accordance with the provisions of  
113 17 subsections 1 and 12, shall be deemed to be held in trust for  
113 18 the state of Iowa. Notwithstanding ~~sections~~ section 489.304  
113 19 or sections 490A.601 and 490A.602, this subsection applies to  
113 20 a member or manager of a limited liability company.  
113 21 Sec. 136. Section 476C.1, subsection 6, paragraph b,  
113 22 subparagraph (6), Code 2007, is amended to read as follows:  
113 23 (6) A cooperative corporation organized pursuant to  
113 24 chapter 497 or a limited liability ~~corporation~~ company  
113 25 organized pursuant to chapter 489 or 490A whose shares and  
113 26 membership are held by an entity that is not prohibited from  
113 27 owning agricultural land under chapter 9H.  
113 28 Sec. 137. Section 488.108, subsection 4, paragraph b,  
113 29 subparagraph (4), Code 2007, is amended to read as follows:  
113 30 (4) For a limited liability company, under chapter 489,  
113 31 section 489.108, 489.109, or 489.706 and for a limited  
113 32 liability company under chapter 490A, section 490A.401,  
113 33 490A.402, or 490A.1322.  
113 34 Sec. 138. Section 490.401, subsection 2, paragraph b,  
113 35 subparagraph (4), Code 2007, is amended to read as follows:  
114 1 (4) For a limited liability company, under chapter 489,  
114 2 section 489.108, 489.109, or 489.706 and for a limited  
114 3 liability company under chapter 490A, section 490A.401,  
114 4 490A.402, or 490A.1322.  
114 5 Sec. 139. Section 501A.102, subsections 9 and 13, Code  
114 6 2007, are amended to read as follows:

114 7 9. "Domestic business entity" means a business entity  
114 8 organized under the laws of this state, including but not  
114 9 limited to a limited liability company as defined in section  
114 10 489.102 or 490A.102; a corporation organized pursuant to  
114 11 chapter 490; a nonprofit corporation organized under chapter  
114 12 504; ~~a limited liability company as defined in section~~  
114 13 ~~490A.102~~; a partnership, limited partnership, limited  
114 14 liability partnership, or limited liability limited  
114 15 partnership as provided in chapter 486A or 488; or a  
114 16 cooperative association or other cooperative organized under  
114 17 this chapter or chapter 497, 498, 499, or 501.

114 18 13. "Iowa limited liability company" means a limited  
114 19 liability company governed by chapter 489 or 490A.

114 20 Sec. 140. Section 501A.1101, subsection 1, Code Supplement  
114 21 2007, is amended to read as follows:

114 22 1. AUTHORIZATION. Unless otherwise prohibited,  
114 23 cooperatives organized under the laws of this state, including  
114 24 cooperatives organized under this chapter or traditional  
114 25 cooperatives, may merge or consolidate with each other, an  
114 26 Iowa limited liability company under the provisions of section  
114 27 489.1015 or 490A.1207, or other business entities organized  
114 28 under the laws of another state by complying with the  
114 29 provisions of this section and the law of the state where the  
114 30 surviving or new business entity will exist. A cooperative  
114 31 shall not merge or consolidate with a business entity  
114 32 organized under the laws of this state, other than a  
114 33 traditional cooperative, unless the law governing the business  
114 34 entity expressly authorizes merger or consolidation with a  
114 35 cooperative. This subsection does not authorize a foreign  
115 1 business entity to do any act not authorized by the law  
115 2 governing the foreign business entity.

115 3 Sec. 141. Section 501A.1101, subsection 2, paragraphs a  
115 4 through c, Code Supplement 2007, are amended to read as  
115 5 follows:

115 6 a. The names of the constituent domestic cooperative, the  
115 7 name of any Iowa limited liability company that is a party to  
115 8 the merger, to the extent authorized under section 489.1015 or  
115 9 490A.1207, and any foreign business entities.

115 10 b. The name of the surviving or new domestic cooperative,  
115 11 Iowa limited liability company as required by section 489.1015  
115 12 or 490A.1207, or other foreign business entity.

115 13 c. The manner and basis of converting membership or  
115 14 ownership interests of the constituent domestic cooperative,  
115 15 the Iowa limited liability company that is a party as provided  
115 16 in section 489.1015 or 490A.1207, or foreign business entity  
115 17 into membership or ownership interests in the surviving or new  
115 18 domestic cooperative, the surviving Iowa limited liability  
115 19 company as authorized in section 489.1015 or 490A.1207, or  
115 20 foreign business entity.

115 21 Sec. 142. Section 501A.1101, subsection 5, paragraph c,  
115 22 Code Supplement 2007, is amended to read as follows:

115 23 c. If a merger involves an Iowa limited liability company,  
115 24 this subsection is subject to the provisions of section  
115 25 489.1015 or 490A.1207.

115 26 Sec. 143. Section 501A.1102, subsection 2, unnumbered  
115 27 paragraph 1, Code 2007, is amended to read as follows:

115 28 An Iowa limited liability company may only participate in a  
115 29 merger under this section to the extent authorized under  
115 30 section 489.1015 or 490A.1207. A parent domestic cooperative  
115 31 or a subsidiary that is a domestic cooperative may complete  
115 32 the merger of a subsidiary as provided in this section.  
115 33 However, if either the parent cooperative or the subsidiary is  
115 34 a business entity organized under the laws of this state, the  
115 35 merger of the subsidiary is not authorized under this section  
116 1 unless the law governing the business entity expressly  
116 2 authorizes merger with a cooperative.

116 3 Sec. 144. Section 501A.1103, subsection 2, paragraph a,  
116 4 subparagraphs (3) and (6), Code 2007, are amended to read as  
116 5 follows:

116 6 (3) The abandonment is approved in such manner as may be  
116 7 required by section 489.1015 or 490A.1207 for the involvement  
116 8 of an Iowa limited liability company, or for a foreign  
116 9 business entity by the laws of the state under which the  
116 10 foreign business entity is organized.

116 11 (6) The plan is abandoned before the effective date of the  
116 12 plan by a resolution of the board of any constituent domestic  
116 13 cooperative abandoning the plan of merger approved by the  
116 14 affirmative vote of a majority of the directors present,  
116 15 subject to the contract rights of any other person under the  
116 16 plan. If a plan of merger is with a domestic business entity  
116 17 or foreign business entity, the plan of merger may be

116 18 abandoned before the effective date of the plan by a  
116 19 resolution of the foreign business entity adopted according to  
116 20 the laws of the state under which the foreign business entity  
116 21 is organized, subject to the contract rights of any other  
116 22 person under the plan. If the plan of merger is with an Iowa  
116 23 limited liability company, the plan of merger may be abandoned  
116 24 by the Iowa limited liability company as provided in section  
116 25 489.1015 or 490A.1207, subject to the contractual rights of  
116 26 any other person under the plan.

116 27 Sec. 145. Section 504.401, subsection 2, paragraph b,  
116 28 subparagraph (4), Code 2007, is amended to read as follows:

116 29 (4) For a limited liability company, under chapter 489,  
116 30 section 489.108, 489.109, or 489.706 and for a limited  
116 31 liability company under chapter 490A, section 490A.401,  
116 32 490A.402, or 490A.1322.

116 33 Sec. 146. Section 504.403, subsection 1, paragraph b,  
116 34 subparagraph (4), Code 2007, is amended to read as follows:

116 35 (4) For a limited liability company, under chapter 489,  
117 1 section 489.108, 489.109, or 489.706 and for a limited  
117 2 liability company under chapter 490A, section 490A.401,  
117 3 490A.402, or 490A.1322.

117 4 Sec. 147. Section 524.303, subsection 2, Code 2007, is  
117 5 amended to read as follows:

117 6 2. Applicable fees, payable to the secretary of state as  
117 7 specified in section 489.117 or 490A.124 or section 490.122 or  
117 8 490A.124, for the filing and recording of the articles of  
117 9 incorporation.

117 10 Sec. 148. Section 524.315, subsection 1, Code 2007, is  
117 11 amended to read as follows:

117 12 1. A state bank organized as a limited liability company  
117 13 under this chapter shall also be subject to chapter 489, the  
117 14 revised uniform limited liability company Act or chapter 490A,  
117 15 the Iowa limited liability company Act. If a provision of  
117 16 chapter 489, the revised uniform limited liability company  
117 17 Act, or chapter 490A, the Iowa limited liability company Act  
117 18 conflicts with a provision of this chapter or any rule of the  
117 19 superintendent adopted pursuant to this chapter, the  
117 20 provisions of this chapter or rule of the superintendent shall  
117 21 control.

117 22 Sec. 149. Section 524.1309, unnumbered paragraph 1, Code  
117 23 2007, is amended to read as follows:

117 24 In lieu of the dissolution procedure prescribed in sections  
117 25 524.1303 to 524.1306, a state bank may cease to carry on the  
117 26 business of banking and, after compliance with this section,  
117 27 continue as a corporation subject to chapter 490; or if the  
117 28 state bank is organized as a limited liability company under  
117 29 this chapter, continue as a limited liability company subject  
117 30 to chapter 489 or 490A.

117 31 Sec. 150. Section 524.1309, subsections 1, 3, 5, 6, 7, 8,  
117 32 and 9, Code 2007, are amended to read as follows:

117 33 1. A state bank that has commenced business may propose to  
117 34 voluntarily cease to carry on the business of banking and  
117 35 become a corporation subject to chapter 490, or a limited  
118 1 liability company subject to chapter 489 or 490A, upon the  
118 2 affirmative vote of the holders of at least a majority of the  
118 3 shares entitled to vote on such proposal, adopting a plan  
118 4 involving both a provision for acquisition of its assets and  
118 5 assumption of its liabilities by another state bank, national  
118 6 bank, or other financial institution insured by the federal  
118 7 deposit insurance corporation, and a provision for continuance  
118 8 of its business if acquisition of its assets and assumption of  
118 9 its liabilities is not effected, or any other plan providing  
118 10 for the cessation of banking business and the payment of its  
118 11 liabilities.

118 12 3. Immediately upon adoption and approval of a plan to  
118 13 voluntarily cease to carry on the business of banking and  
118 14 become a corporation subject to chapter 490, or a limited  
118 15 liability company subject to chapter 489 or 490A, the state  
118 16 bank shall deliver to the superintendent a plan to cease the  
118 17 business of banking and become a corporation subject to  
118 18 chapter 490, or a limited liability company subject to chapter  
118 19 489 or 490A, which shall be signed by two of its duly  
118 20 authorized officers and shall contain the name of the state  
118 21 bank, the post office address of its principal place of  
118 22 business, the name and address of its officers and directors,  
118 23 the number of shares entitled to vote on the plan and the  
118 24 number of shares voted for or against the plan, respectively,  
118 25 the nature of the business to be conducted by the corporation  
118 26 under chapter 490, or by the limited liability company subject  
118 27 to chapter 489 or 490A, and the general nature of the assets  
118 28 to be held by the corporation or company.

118 29 5. The board of directors has full power to complete the  
118 30 settlement of the affairs of the state bank. Within thirty  
118 31 days after approval by the superintendent of the plan to cease  
118 32 the business of banking and become a corporation subject to  
118 33 chapter 490, or a limited liability company subject to chapter  
118 34 489 or 490A, the state bank shall give notice of its intent to  
118 35 persons identified in section 524.1305, subsection 3, in the  
119 1 manner provided for in that subsection. In completing the  
119 2 settlement of its affairs as a state bank, the state bank  
119 3 shall also follow the procedure prescribed in section  
119 4 524.1305, subsections 4, 5, and 6.

119 5 6. Upon completion of all the requirements of this  
119 6 section, the state bank shall deliver to the superintendent  
119 7 articles of intent to be subject to chapter 490 or 489 or  
119 8 490A, together with the applicable filing and recording fees,  
119 9 which shall set forth that the state bank has complied with  
119 10 this section, that it has ceased to carry on the business of  
119 11 banking, and the information required by section 490.202  
119 12 relative to the contents of articles of incorporation under  
119 13 chapter 490, or articles of organization under chapter 489 or  
119 14 490A. If the superintendent finds that the state bank has  
119 15 complied with this section and that the articles of intent to  
119 16 be subject to chapter 490 or 489 or 490A satisfy the  
119 17 requirements of this section, the superintendent shall deliver  
119 18 them to the secretary of state for filing and recording in the  
119 19 secretary of state's office, and the superintendent shall file  
119 20 and record them in the office of the county recorder.

119 21 7. Upon the filing of the articles of intent to be subject  
119 22 to chapter 490 or 489 or 490A, the state bank shall cease to  
119 23 be a state bank subject to this chapter, and shall cease to  
119 24 have the powers of a state bank subject to this chapter and  
119 25 shall become a corporation subject to chapter 490 or a limited  
119 26 liability company subject to chapter 489 or 490A. The  
119 27 secretary of state shall issue a certificate as to the filing  
119 28 of the articles of intent to be subject to chapter 490 or 489  
119 29 or 490A and send the certificate to the corporation or limited  
119 30 liability company or its representative. The articles of  
119 31 intent to be subject to chapter 490 or 489 or 490A shall be  
119 32 the articles of incorporation of the corporation or a limited  
119 33 liability company. The provisions of chapter 490 or 489 or  
119 34 490A becoming applicable to a corporation or limited liability  
119 35 company formerly doing business as a state bank shall not  
120 1 affect any right accrued or established, or liability or  
120 2 penalty incurred under this chapter prior to the filing with  
120 3 the secretary of state of the articles of intent to be subject  
120 4 to chapter 490 or 489 or 490A.

120 5 8. A shareholder of a state bank who objects to adoption  
120 6 by the state bank of a plan to cease to carry on the business  
120 7 of banking and to continue as a corporation subject to chapter  
120 8 490, or a limited liability company subject to chapter 489 or  
120 9 490A, is entitled to appraisal rights provided for in chapter  
120 10 490, division XIII, or in chapter 489, section 489.604 or  
120 11 490A, subchapter VII.

120 12 9. A state bank, at any time prior to the approval of the  
120 13 articles of intent to become subject to chapter 490 or 489 or  
120 14 490A, may revoke the proceedings in the manner prescribed by  
120 15 section 524.1306.

120 16 Sec. 151. Section 524.2001, Code 2007, is amended to read  
120 17 as follows:

120 18 524.2001 APPLICABILITY OF OTHER CHAPTERS.

120 19 Chapters 489, 490, 490A, 491, 492, and 493 do not apply to  
120 20 banks except as provided by this chapter.

120 21 Sec. 152. Section 547.1, Code 2007, is amended to read as  
120 22 follows:

120 23 547.1 USE OF TRADE NAME == VERIFIED STATEMENT REQUIRED.

120 24 A person shall not engage in or conduct a business under a  
120 25 trade name, or an assumed name of a character other than the  
120 26 true surname of each person owning or having an interest in  
120 27 the business, unless the person first records with the county  
120 28 recorder of the county in which the business is to be  
120 29 conducted a verified statement showing the name, post office  
120 30 address, and residence address of each person owning or having  
120 31 an interest in the business, and the address where the  
120 32 business is to be conducted. However, this provision does not  
120 33 apply to any person organized or incorporated in this state as  
120 34 a domestic entity or authorized to do business in this state  
120 35 as a foreign entity, if the person is a limited partnership  
121 1 under chapter 488; a corporation under chapter 490; a limited  
121 2 liability company under chapter 489 or 490A; a professional  
121 3 corporation under chapter 496C; a cooperative or cooperative  
121 4 association under chapter 497, 498, 499, 501, or 501A; or a

121 5 nonprofit corporation under chapter 504.  
121 6 DIVISION IV  
121 7 REPEALS  
121 8 SUBCHAPTER XVII  
121 9 REPEAL  
121 10 Sec. 153. NEW SECTION. 490A.1701 REPEAL.  
121 11 This chapter is repealed on December 31, 2010.  
121 12 Sec. 154. FUTURE ELIMINATION OF NONCONFORMING REFERENCES.  
121 13 The following sections, as amended by this Act, or as amended  
121 14 by a subsequent Act, are amended as follows:  
121 15 1. Sections 9H.1, 10B.1, 10C.1, 10D.1, 203.1, and  
121 16 501A.102, by striking from the sections the word and figure  
121 17 "or 490A.102".  
121 18 2. Sections 9H.4, 10.1, 10B.4, 10B.7, 476C.1, 501A.102,  
121 19 524.1309, and 547.1, by striking from the sections the word  
121 20 and figure "or 490A".  
121 21 3. Sections 10.1 and 10.10, by striking from the sections  
121 22 the word and figure "or 490A.305".  
121 23 4. Sections 10.1 and 10.10, by striking from the sections  
121 24 the word and figure "or 490A.307".  
121 25 5. Sections 421.26 and 422.16, by striking from the  
121 26 sections the words and figures "or sections 490A.601 and  
121 27 490A.602".  
121 28 6. Sections 488.108, 490.401, 504.401, and 504.403, by  
121 29 striking from the sections the words and figures "and for a  
121 30 limited liability company under chapter 490A, section  
121 31 490A.401, 490A.402, or 490A.1322".  
121 32 7. Sections 501A.1101, 501A.1102, and 501A.1103, by  
121 33 striking from the sections the word and figure "or 490A.1207".  
121 34 8. Section 524.303, by striking from the section the word  
121 35 and figure "or 490A.124".  
122 1 9. Section 524.315, by striking from the section the words  
122 2 and figure "or chapter 490A, the Iowa limited liability  
122 3 company Act".  
122 4 10. Section 524.1309, by striking from the section the  
122 5 words and figures "or 490A, subchapter VII".  
122 6 11. Section 524.2001, by striking from the section the  
122 7 figure "490A,".

122 8 DIVISION V  
122 9 EFFECTIVE DATES

122 10 Sec. 155. EFFECTIVE DATES.  
122 11 1. Except as provided in subsection 2, this Act takes  
122 12 effect on January 1, 2009.  
122 13 2. The section of division IV of this Act that provides  
122 14 for the future elimination of nonconforming references takes  
122 15 effect on December 31, 2010.  
122 16  
122 17  
122 18

122 19 \_\_\_\_\_  
122 20 PATRICK J. MURPHY  
122 21 Speaker of the House

122 22 \_\_\_\_\_  
122 23 JOHN P. KIBBIE  
122 24 President of the Senate

122 25  
122 26  
122 27 I hereby certify that this bill originated in the House and  
122 28 is known as House File 2633, Eighty-second General Assembly.  
122 29

122 30  
122 31  
122 32 \_\_\_\_\_  
122 33 MARK BRANDSGARD  
122 34 Chief Clerk of the House

122 35  
122 36 Approved \_\_\_\_\_, 2008

123 1  
123 2 \_\_\_\_\_  
123 3 CHESTER J. CULVER  
123 4 Governor